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BY

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AND

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"Δεῖ καὶ τὰς ἄλλας ἐπισκέψασθαι πολιτείας . . . ἵνα τό τ'ὀρθῶς ἔχον ὀφθῇ καὶ τὸ χρήσιμον."—Arist. *Pol.* II. 1.

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REVIEW OF LEGISLATION, 1917.

INTRODUCTION.

[*Contributed by* SIR COURTENAY ILBERT, G.C.B.]

WAR strikes the dominant note in the legislation of 1917. In the United Kingdom the bulkiest legislative output of the year was supplied by the Sibylline leaves of "Dora," which fluttered down upon us in bewildering multitude and confusion, and are now, to the general relief, being swept away into limbo. But Mr. Godley's careful and useful analysis of the Representation of the People Act reminds us that the legislation of the war period was not all of this fugitive character. This Act did not become law until the beginning of 1918, but it has been conveniently treated as properly belonging to the previous year, when it occupied much time in Parliament. The same inference is to be drawn from the review of the South African legislation. Our Society is deeply indebted to the Law Officers of the Crown and other official draftsmen of laws throughout the Empire for the valuable help which they have given us, under the heavy stress of official work, and under conditions of exceptional difficulty. To no one are we more indebted than to Mr. E. L. Matthews, K.C., who has continued his contributions of previous years by giving us this year a full, lucid and masterly account of the great measures of reconstruction consequent on the establishment of the Union of South Africa. It is a model of what such reviews of legislation should be. It would be invidious to particularise other names, but the present writer may be permitted to express his personal gratitude to the Secretary to the Government of India in the Legislative Department for having relieved him from the task of summarising the legislation of British India. Mr. Muddiman has not omitted to lay a garland on his contribution by mentioning an enactment of the Burma legislature which solemnly enacts that "The presence of the water

hyacinth in Burma is hereby declared to be, and is, a public nuisance." Poor nuisance, with a classic name!

It has become a commonplace to say that the war has illustrated and emphasised the essential unity of the British Empire. It is a unity through differences, owing its vitality and stability to the full recognition of those differences. During the last fateful years, the several members of the British Empire have been working out their own destinies, animated, in relation to the main issue, by a common purpose, anxious to learn lessons from each others' successes and failures, but resolutely determined to solve their own problems in their own ways, and, in accordance with their own needs, habits and traditions, anxious to learn lessons from each other. And never have those lessons been more needed, never more fruitfully supplied, than during the war, and during the period of reconstruction which is now following the war. The war has compelled legislatures and executive governments to adopt novel and risky experiments for the purpose of meeting its exigencies and of repairing its devastations, and has driven, and is driving, the State into new and unexplored fields of activity. Similar experiments are being tried throughout the British Dominions: fiscal experiments, experiments in state aid to, and encouragement of, agricultural and other forms of industry, experiments in land settlement, and a thousand others. Legislators at Westminster, and those on whom they depend for advice and suggestions, could not employ any leisure time which may fall to them more usefully than in studying these experiments, as illustrated by the pages of our Society's Review of Legislation. Each will draw his own lesson according to his own proclivities. Some may be for adopting colonial devices (if the word "colonial" may be pardoned) in taxing war profits, in making subscriptions to war loans compulsory (as in New Zealand) or in taxing bachelors and childless widowers. Others may admire the patriotic zeal of Australia in imposing disqualifications on persons of foreign origin, and altering by statute the names of towns and districts which indicate a foreign enemy origin. Protectionists will find comfort in a Victorian Act which requires materials used by public authorities to have been manufactured within the Commonwealth. Envy will be felt of the facilities afforded by the Crown land system in Australia for settling retired soldiers on the land. The moderate drinker may think that the sirocco which is drying up North

America is more appropriately at work in regulating the liquor traffic of Nigeria.

The Society was unable last year, but has been able this year, to obtain reviews of foreign legislation, including that of France, Holland and Sweden. For our review of Dutch legislation we are indebted to the International Intermediary Institute. One sometimes hesitates to class the legislation of our cousins in the United States as foreign, but we may take this opportunity of congratulating Mr. Newton Crane, who is still helping us usefully about this legislation, on his appointment as a bencher of the Middle Temple.

H.E. THE HON. J. W. DAVIS, THE U.S. AMBASSADOR.

[*Contributed by the* Rt. Hon. the Earl of Reading, G.C.B., K.C.V.O., the Lord Chief Justice of England, lately Ambassador Extraordinary and High Commissioner to the United States.]

The Government of the United States has been for many years past singularly happy in the selection of an Ambassador to the Court of St. James's, and has accustomed us to expect in its representative a man of high distinction, culture, and capacity for affairs.

It is not necessary to go farther back than the last three, Choate, Whitelaw Reid, and Page, ambassadors as well known in Britain as many of our own public men, to prove how varied the series has been in character and charm. We shall always remember the steadfastness during the war of Page's faith in the high moral purpose of Britain, and in her inflexible determination to accomplish it.

Mr. John W. Davis in many respects resembles Choate, for he is a lawyer of the greatest eminence in his own country, with a profound appreciation of the Majesty of the Law, and an unflagging zeal in the pursuit of justice; a speaker of rare felicity and impressive sincerity; a diplomat of fine dignity and wide vision imbued with a fervent desire to serve his country to the utmost of his power.

As a lawyer he enjoys the highest reputation among those best qualified to judge for precision, conciseness, and lucidity of exposition—attributes which are of special value to Counsel addressing the Supreme Court of the United States on account of the short time allowed for oral argument.

I first met Mr. Davis when he held the office of Solicitor-General, and the acquaintance thus begun in 1915 was renewed in 1917, till it has ripened into friendship. Indeed, the attraction of the man is instantaneous, so alert and subtle is his mind, so broad his survey of the problems of life, so keen his desire to contribute his

share to the progress of the world. No one can be for long in his company without appreciating that behind the gentle, humorous, and dignified exterior lie real feeling and energy, resolve never to spare himself in the performance of public duty, and enthusiasm for the work to which he has dedicated his abilities. He came to us at the end of a time of great anxiety and stress, when the war in which his countrymen and ours had been fighting side by side had only just ceased, and during his residence here he has doubtless already been called upon to deal with intricate and momentous questions. He has, however, found time to make for himself an assured position in our public life and to render fine service in the vital process of knitting together ever more closely the British and American peoples, to which end he has worked throughout with devotion. May he long remain with us to further that high and cherished cause!

BRITISH EMPIRE.

I. BRITISH ISLES.

1. UNITED KINGDOM.

[Contributed by the Hon. Hugh Godley.]

The session which began early in 1917 lasted until February 1918, and this review relates to all legislation passed in the course of that session. As in the two preceding years, the greater part of the legislation passed was legislation arising directly out of the necessities of the war, and was consequently of a temporary and emergency character. At the same time the course of events led to the passing of a considerable volume of laws which, although in general arising out of war conditions, are of a permanent character.

This review is divided into four categories:

I. Relates to the Representation of the People Act (c. 64) which, from the permanent point of view, was by far the most important reform to which effect was given by Parliament in the course of the session;

II. Refers briefly to such other Acts of Parliament passed during the session as are permanent in character;

III. Deals shortly with the Acts passed during the session which relate definitely to the necessities of the war and are consequently of a temporary nature; and

IV. Deals with the legislation during the period under review which was accomplished by means of Orders in Council under the Defence of the Realm Acts.

I. Representation of the People Act (c. 64).

The Bill for this Act was founded on the report of a committee of members of both Houses appointed by the Prime Minister (Mr. Asquith) under the chairmanship of Mr. Speaker, and made sweeping and fundamental reforms in the law as to the franchise, the registration of electors, the methods of election, and the distribution of seats in the United Kingdom, incidentally increasing the number of parliamentary electors to nearly three times what it was under the old law. The circumstances under which the Bill came to be introduced at a time when the whole

energies of Parliament and the executive were devoted to measures connected with the war were as follows:

The House of Commons, which was elected in December 1911, would naturally have expired under the terms of the Parliament Act in January 1916. At that time, however, apart from the objection to holding a general election at an acute period of the war, it was considered impossible to hold such an election in view of the state of the electoral register. Registration had been suspended since the commencement of the war, and the existing register had been in force since January 1, 1915, representing the state of the electorate as it existed in July 1914, since which date the circumstances of the war, in addition to the normal process of migration, had completely altered the distribution of the population.

The life of Parliament was accordingly prolonged by statute from time to time, but at the end of the year 1916 the view was generally held that, although it might still be undesirable to hold a general election, it was, from a constitutional point of view, objectionable that, owing to the state of the register, such an election could not in any circumstances be held. On the other hand, it was strongly urged that, if a new register were prepared under the existing law, by far the majority of the members of the forces of the Crown, representing by this time some millions of men, would be disfranchised, having lost their qualification.

Attempts were accordingly made, both by Government Bills and by a Bill introduced into the House of Lords by Lord Salisbury, to provide for the preparation of a register under which the civil population would be registered in the ordinary way, and the sailors and soldiers under special provisions which varied according to the various measures brought forward.

It soon became obvious, however, that if any measure were introduced for the preparation of a new register which created any extension of the existing franchise it could not be proceeded with unless at the same time various other extensions were made, and in particular unless the franchise were in some measure extended to women.

Discussion on this subject led to the appointment of the Speaker's Conference alluded to above, and a Bill founded on this report was introduced and subsequently passed into law.

The Act has some of the distinguishing marks of a compromise, but it has in any case brought about an enormous simplification of the law relating to elections and enabled a very large number of statutory provisions (dating from the time of Henry VI) to be repealed.

The Act deals with both parliamentary and local government elections and its provisions fall under four main heads, viz. "Franchises," "Registration," "Methods and Costs of Election," and "Redistribution." These four heads may be dealt with in that order:

Franchises.

The Act sweeps away all pre-existing franchises and provides for the enfranchisement of all male British subjects of full age who are qualified for any constituency by a residence of six months in that constituency, or in another constituency in the same or a contiguous parliamentary borough or parliamentary county. In addition to this a vote is given in respect of the occupation for the same time and in the same circumstances of business premises. The university vote is retained, but, instead of being confined as heretofore to men who have attained the degree of M.A., the university franchise is extended to all persons who have taken any degree other than an honorary degree, and the list of universities forming or forming part of constituencies is extended by the addition of the Universities of Durham, Manchester, Liverpool, Leeds, Sheffield, Birmingham and Bristol in England, the University of Wales, the Universities of St. Andrews, Glasgow, Aberdeen and Edinburgh in Scotland, and the University of Belfast and the National University in Ireland.

The franchise is extended to women, but on an entirely different basis. The enfranchisement of women being regarded as experimental, it was considered undesirable to proceed at once to the enfranchisement of all women on the same plane as men, and an artificial limit is therefore imposed on the number of women capable of qualifying for registration. A vote is conferred only on those women who are either themselves qualified as local government electors by the occupation of premises, or are the wives of men who are so qualified, and the franchise is limited to women who have attained the age of thirty. A university vote is granted to women who have attained this age and who have either taken a degree, or, in the case of Universities which do not yet give degrees to women, have passed such examinations and kept such period of residence as is necessary to qualify for a degree in the case of men. The effect of this has been to enfranchise 8,479,156 women out of a total electorate of 21,392,322.

The difficult subject of the votes of men and women on active service with His Majesty's Forces is dealt with by providing that any "naval or military voter" should be entitled to be registered as a parliamentary elector for any constituency for which he "would have had the necessary qualifications but for his service." Such a provision was obviously calculated to lead to complicated and troublesome questions as to what constituency this might be, but these questions were to a large extent disposed of by enabling a naval or military voter to make a declaration as to the constituency for which he would have been qualified, and by providing that, in the absence of evidence to the contrary, the declaration shall be regarded as final. It will be observed that

whilst in form, at any rate, the franchise of naval and military voters is based on hypothetical residence, the hypothetical occupation of business premises, etc., the practical effect is that a naval or military voter is enfranchised by virtue of his service, and can by declaration decide himself for which constituency he will be registered. The number of naval and military voters actually registered was 3,900,135.

The expression " naval or military voter " is defined so as to include not only men serving on full pay as members of the naval, military and air forces, but also all classes of persons serving abroad or afloat in connection with any war in which His Majesty is engaged (not only in the present war), in any service of a " naval or military character, " nurses, ambulance workers, mine-sweepers, etc. So far as male naval and military voters serving in the present war are concerned, the franchise is conferred at the age of nineteen, the argument of those who contended that a vote should not be regarded as a reward of virtue being outweighed by that of those who contended that a man who is " old enough to fight is old enough to vote."

The local government franchise is conferred upon men and women of full age who are the occupiers, as owner or tenant, of land or premises in any local government electoral area,[1] and also upon the wives, if over thirty years of age, of men who are qualified as local government electors, provided in this last case that the husband and wife both reside on the premises.

It will be noticed that there is nothing in the Act to prevent a person who possesses a qualification (of whatever nature) in more than one constituency from being registered as a parliamentary elector in each of those constituencies. The Act, however, provides that at a general election no person may vote more than twice. A man at a general election may vote once in respect of residence qualification and once in respect of a business premises or a university qualification ; he cannot in any case vote more than once in respect of a qualification of any particular kind, nor in respect both of a business premises qualification and a university qualification. A woman at a general election may vote once in respect of her own or her husband's occupation and once in respect of a university qualification, but she equally cannot vote more than once in respect of the same qualification. Infringement of this provision against plural voting is declared to be an " illegal practice," and entails severe penalties including disenfranchisement for a period of years. Apart from general elections, the right of any elector to vote at any number of constituencies in which he may be registered is unrestricted.

[1] This does not apply to Scotland, where the local government franchise is conferred on men and women who (1) own, or occupy as tenant, lodgings of the annual value of £10, or (2) occupy as owner or tenant, or in virtue of any office or service, a dwelling-house, or (3) occupy lodgings which, if let unfurnished, would be of an annual value of £10,

Subject to two important exceptions, all the circumstances which have hitherto constituted a disqualification for acting as an elector either at parliamentary or local government elections (alienage, conviction for felony, etc.) continue under the new law. The two exceptions are (1) disqualification on the ground of sex, and (2) disqualification on the ground of poor relief, which is entirely abolished.

Provision is made, on the other hand, for a disqualification of an entirely novel character, namely, conscientious objection to military service. This proposal was not contained in the Bill as introduced, but an amendment providing for the total disqualification of all conscientious objectors was strongly supported on the general ground that the rights of citizenship should be denied to those who declined to carry out its duties. This argument was met by one (of at least equal force) to the effect that Parliament in the Military Service Acts had definitely provided for the total or conditional exemption from military service of men who before a tribunal established their conscientious objection to military service, and that it is not right to disenfranchise them merely for availing themselves of an exemption conferred by statute. After considerable controversy in both Houses the disqualification of a conscientious objector was embodied in the Act. It was, however, limited to a period of five years after the conclusion of war, and does not extend to conscientious objectors who prove that they have, notwithstanding their objection to combatant service, taken part in any service (such as mine-sweeping, work for the Red Cross, Y.M.C.A., etc.), which would constitute them a naval or military voter, or who, having been exempted from military service on condition of doing work of national importance, have done such work in accordance with the decision and to the satisfaction of the appropriate tribunal.

Registration.

The Act provides for the preparation of a new register twice[1] in every year; the first, or "Spring" register, relates to the qualifying period ending on January 15, and the second or "Autumn" register relates to the qualifying period ending on July 15. The two registers come into force on April 15 and October 15 respectively, so that the longest period for which a person can reside in a constituency without getting on the register is nine months.

Each parliamentary borough and each parliamentary county is a registration area, and the registration officers are the clerks of the county council, town clerks, or clerks of urban district councils as the case may be. The annual courts formerly held by revising barristers are abolished, claims or objections to the electors' lists being heard and determined in a non-judicial manner by the registration officer, from whose decision,

[1] In Ireland once only, in the autumn.

however, an appeal lies to the county court, and thence (on a point of law only) to the Court of Appeal.

An elaborate code of registration rules is prescribed by the First Schedule to the Act, and power is conferred to modify or extend the code by Order in Council.[1] The rules provide, amongst other things, that the registration officer, either himself or through the overseers of a parish in his area, must, before compiling the lists of electors, make a house-to-house inquiry and place upon the lists the names of all persons appearing to be entitled to be registered as parliamentary or local government electors, the intention being that all properly qualified persons shall find their way on to the register without the necessity of any formal claim. The registration officer is also required to prepare and add, as a supplement to the register, an " absent voters list." The names of all naval and military voters, unless they otherwise require, or unless they are registered in respect of an actual and not a " hypothetical " residence, are required to be placed upon the absent voters list.

The Treasury is required to frame a scale of registration expenses, and any expenses properly incurred (*i.e.* not exceeding the maximum amount allowed by or in accordance with the scale) are paid in the first instance by the council whose clerk the registration officer is; but that council is entitled to receive from the Exchequer an amount equal to one-half those expenses.

The general provisions of the Act as to registration do not apply as to the university constituencies. The governing body of every University forming, or forming part of a university constituency, is required to keep a register of voters in such form and made up as to such dates as the governing body may direct.

Method and Costs of Elections.

Amongst the recommendations of the Speaker's Conference was a recommendation that certain constituencies should be grouped for the purposes of elections, and that in any constituency returning three or more members, any election of the full number of members should be conducted according to the principle of proportional representation, each member having one transferable vote. It was further recommended that if, at an election for one member of Parliament, there were more than two candidates, the election should be according to the principle of the alternative vote.

These proposals were embodied in the Bill as introduced, and much controversy centred around them, not only in both Houses of Parliament but between the two Houses. After prolonged discussion and a number of close divisions, the principle of the alternative vote was entirely dropped. The principle of the single transferable vote (generally known

[1] See the Representation of the People Order, S.R. & O. 1918, No. 1813.

as proportional representation) was finally retained only for university constituencies returning two or more members. Provision was, however, made for the appointment of commissioners to prepare a scheme under which, at every general election, as nearly as possible one hundred members should be returned on the principle of proportional representation. The scheme was to be laid before both Houses of Parliament, and, if adopted by them, to take effect as though enacted in the Act.[1]

The procedure to be adopted at elections conducted according to the principle of proportional representation was left to be prescribed by Order in Council.[2]

The following further important reforms in electoral law were made by this part of the Act:

1. All elections at a general election are required to be held on one day.

2. Every candidate at an election is required, on nomination, to deposit with the returning officer the sum of £150 to be repaid to a successful candidate only on taking his seat and the oath, and to be forfeited by any candidate who fails to secure one-eighth of the total votes polled.[3]

3. Every candidate is given the right of the free use (subject to the payment for expenses and damages), at reasonable times between the receipt of the writ and the day of the poll, of a suitable room in any public elementary school in the constituency.

4. Elaborate provision is made for recording the votes of absent voters, who are given the right, according to the circumstances in which they may be, to vote (*a*) by post, or (*b*) by proxy, the former method being designed for absent voters who are situate within such distance from their constituency that a ballot paper despatched on the nomination of the candidates will reach them in time for them to fill it up and return it so as to reach the returning officer before the counting of the votes, and the latter method being designed to meet the case of absent voters in remote regions, or who (*e.g.* those in seafaring pursuits) are, through the nature of their employment, unlikely to be able to record their votes in person.

It will be observed that these provisions are in no sense limited

[1] Commissioners were duly appointed and a scheme prepared under these provisions. A motion in the House of Commons to adopt the scheme was, however, on a free vote of the House, defeated by a considerable majority. The principle, therefore, applies only to university constituencies.

[2] See the University Elections (Single Transferable Vote) Regulations, 1918. S.R. & O. 1918, No. 1348.

[3] The object of this provision was, of course, to exclude what have been described as "freak candidates." It is interesting to note, however, that at the general election held in December 1918, this deposit was in more than one case forfeited by ex-ministers of the Crown defending seats which they had held for many years.

to war-time, although at such a time the problem of the absent voter is of course far more acute. Any person is entitled to be placed on the absent voters list and to vote as an absent voter if he satisfies the registration officer that, by reason of the nature of his occupation, service or employment he may be debarred from voting at a poll, and, apart altogether from war conditions, this provision will be available for the benefit not only of soldiers, sailors and airmen, but also of all such classes of the population as merchant seamen, commercial travellers, and diplomatic representatives. The right to vote by proxy is, however, confined to naval and military voters afloat or in proxy areas, and to merchant seamen, pilots and fishermen.[1]

As respects the costs of elections, a fundamental reform is effected by providing that all the returning officers' expenses at a parliamentary election (other than university elections) are, subject to a maximum laid down in a Treasury scale and to taxation by the Court on the application of the Treasury, to be paid out of the Exchequer.

Provision is also made for a new scale of election expenses appropriate to the enlarged constituencies. These must not now exceed, in the case of a county election, 7*d*., and, in the case of a borough election, 5*d*. for each elector on the register; but a candidate may spend, over and above this maximum, a sum not exceeding, in the case of a county election £70, and in the case of a borough election £50, as a fee to his election agent.

The Act provides, in the Fifth Schedule, for an entirely new code of election procedure at university elections, all the existing enactments on this subject being repealed.

Redistribution.

In accordance with precedent, the reform of the Franchise effected by this Act was accompanied by a complete scheme of redistribution.[2]

Under the new scheme the House of Commons contains 707 members, returned as follows:

I. England and Wales.

County constituencies, with a population[3] of 16,938,533, return 254 members.

Borough constituencies, with a population of 19,131,959, return 266 members.

Average population per member:

Counties	66,687
Boroughs	71,925

[1] The details of procedure for the purpose of voting by post and voting by proxy are, in pursuance of the provisions of the Act, worked out in the Representation of the People Order (S.R. & O. 1918, No. 1813.)

[2] In Ireland this was effected by a separate statute (c. 68).

[3] According to the 1911 census.

II. Scotland.

County constituencies, with a population of 2,468,355, return 38 members.

Borough constituencies, with a population of 2,292,569, return 33 members.

Average population per member:

Counties	64,956
Boroughs	69,472

III. Ireland.

County constituencies, with a population of 3,478,677, return 80 members.

Borough constituencies, with a population of 911,542, return 21 members.

Average population per member:

Counties	43,483
Boroughs	43,407

IV. University constituencies return:

In England and Wales	8 members
In Scotland	3 ,,
In Ireland	4 ,,

II. Other Legislation of a Permanent Character.

Corn Production.—C. 46, although carrying out a policy which had been widely advocated in peace time, was due to the necessity, arising out of the war, of stimulating to the utmost the production of cereal crops in the United Kingdom. The Act provides for guaranteeing to farmers minimum prices for wheat and oats grown by them during the year 1917 and subsequent years down to the year 1922. The minimum prices are fixed according to a graduated scale, commencing in 1917 at 60*s.* a quarter for wheat, and 38*s.* 6*d.* a quarter for oats, and terminating in 1922 at 45*s.* a quarter for wheat, and 24*s.* 6*d.* a quarter for oats.[1]

In return for the benefits conferred on the farmers by these minimum prices, the Act provides further:

(1) For the payment of minimum wages to agricultural workers, the amount of such wages to be fixed by wages boards established by the Board of Agriculture in consultation with the Minister of Labour, the procedure under the Trade Boards Act being generally applied to the procedure of agricultural wages boards;

(2) For restricting the rent payable in respect of agricultural holdings

[1] These prices were subsequently largely increased by the Food Controller under the Defence of the Realm Regulations, but they remain as statutory minima apart altogether from the state of war.

to the rent which could have been obtained if the guaranteed minimum price had not been fixed;

(3) For enabling the Board of Agriculture to take drastic measures in order to enforce proper cultivation, and to secure the destruction of rabbits and vermin.

Wide powers are also conferred of entry and inspection and of requiring agricultural returns.

Air Force.—C. 51 provides for the setting up of a new branch of His Majesty's Forces under the title of the "Air Force," on the same footing as the Navy and the Army, and incidentally for setting up a "Secretary of State for the Air" and an "Air Council" corresponding to the Secretary of State for War and the Army Council. The Act provides for the transfer to the Air Force of officers and men of the Royal Flying Corps and the Royal Naval Air Service, and for the government, discipline, pay, etc., of the new force.

These matters of government, discipline, etc., are regulated by a statute, to be known as the "Air Force Act," which is to all intents and purposes the Army Act amended in such a way as to make it applicable to the new force. The Air Force Act (as distinct from the Air Force (Constitution) Act) was never passed by Parliament as such, but the Constitution Act provides, by s. 12, that "the Army Act as in force immediately before the passing of this Act shall, subject to the modifications set out in the Schedule to this Act, apply with respect to the Air Force, and shall, as so modified, take effect as a separate Act entitled, 'An Act to provide for the discipline and regulation of the Air Force,' and that Act may, subject to any modification which may from time to time be made therein, be cited as the Air Force Act."

The Constitution Act provides for the application by Order in Council to the Air Force of any Acts relating to the Army Council, the Secretary of State for War, the Army, or officers and soldiers thereof, including enactments conferring any powers, rights, exemption or relief from taxation, or imposing any duties or disabilities on any such officers or soldiers, or to military property and institutions.

Finance.—The financial proposals for the year provide for the continuance of the additional customs and excise duties imposed by previous war budgets, and for a considerable increase in the "Entertainments Duty." The duties on tobacco are doubled. No change is made in the rates of income tax and super-tax, and all the "war reliefs" in connection with income tax are continued. The rate of "Excess Profits Duty" and "Excess Mineral Rights Duty" is raised from 60 per cent. to 80 per cent., and special provision is made for the excess profits duty in the case of shipping concerns.

The subsidiary provisions of the Finance Act (c. 31) provide, amongst other things, for extending relief from income tax in respect of children

to adopted children, for relief in respect of Excess Profits Duty where a similar duty is charged in the overseas Dominions, for the charge of Excess Profits Duty in the case of industrial and provident societies, for an extension of the relief from death duties conferred in the case of persons killed in the war, and for the payment of death duties and excess profits duty by means of the transfer of War Loan securities.

Non-ferrous Metal Industry.—C. 67 prohibits any person from carrying on the business of "winning, extracting, melting, dressing, refining, or dealing by way of wholesale trade, in metal or metallic ore to which this Act applies unless licensed to do so by the Board of Trade." The metals and ores to which the Act applies are zinc, copper, tin, lead, nickel, aluminium, and any other non-ferrous metals and ores to which this Act may be applied by the Board of Trade.

Venereal Disease.—C. 21, although arising in some sense from the social conditions created by the war, is permanent in its effect and provides—

(*a*) That no person, except a duly qualified medical practitioner, may for reward treat any person for venereal disease, or prescribe any remedy therefor, or give any advice in connection with the treatment thereof, whether the advice is given to the person to be treated or otherwise;

(*b*) For the restriction of advertisements, public notices, etc., relating to remedies for the treatment of venereal disease.

The prohibition under (*a*) is limited to "areas in which this section is in operation," and it is provided that the section shall not be brought into operation in any area unless there is in operation in that area an approved scheme for the free treatment of persons suffering from venereal diseases in the area. Such schemes are, however, already in force in the greater part of the Kingdom.

Chequers Estate.—C. 55 confirms a deed of settlement under which the Chequers Estate in Buckinghamshire is transferred by the owner, Lord (then Sir Arthur) Lee, to the nation for the purpose of being utilised as a country residence of the Prime Minister for the time being.

Statutory confirmation of this deed was necessary to avoid the "rule against perpetuities," and also to provide that future beneficiaries under the Act should not be liable to income tax and inhabited house duty in respect of the Chequers property. The deed takes place after the expiration of the life interests of Lord and Lady Lee.[1]

[1] It is perhaps of interest here to quote the words (set out in the Schedule to the Act) in which Sir Arthur Lee explains the objects of his gift:

"It is not possible to foresee or foretell from what classes or conditions of life the future wielders of power in this country will be drawn. Some may be, as in the past, men of wealth and famous descent; some may belong to the world of trade or business; others may spring from the ranks of the manual toilers. To none of these, in the midst of their strenuous and responsible labours, could the spirit and anodyne of Chequers do anything but good. In the city-bred man

Bishoprics of Bradford and Coventry.—Provision was made in the usual manner by c. 57, for the establishment of these two new bishoprics.

Census of Production.—Under the Census of Production Act, 1906, provision was made for requiring a census of production to be taken at fixed intervals determined by order of the Board of Trade. The new Act (c. 2) provides that there need not be any fixed interval between one census of production and another, but that the census is to be taken in any year fixed for the purpose by order of the Board of Trade to be laid before Parliament. Provision is also made for enabling the census to be limited to specified trades and businesses, and for an interval of at least one year between an order for a census and the commencement of the period in which the census is to be taken.

Army (Annual).—The only amendments in the Army Act made by the annual Act (c. 9) of this year are amendments providing additional facilities for proof in cases of charges against deserters and absentees without leave.

Acts of minor importance.—Acts were also passed during the session dealing with the control of foreign interests in British companies (cc. 18 and 28), the restriction on the use of gaming machines in Scotland (c. 23), the amalgamation of trade unions (c. 24), the enforcement of epidemic disease regulations by county councils in Ireland (c. 40), the noting of Bills of Exchange (c. 48), the practice of midwives in Ireland (c. 59), the amount to be raised by rates for the expenses of the Metropolitan Police (c. 61), and the provision of meals for school children in Ireland (c. 53).

III. Measures arising directly out of the War.

New Ministries.—Provision was made during the year for two new ministries, namely:

(1) The Ministry of National Service, "for the purpose of making

especially, the periodic contact with the most typical rural life would create and preserve a just sense of proportion between the claims of town and country. To the revolutionary statesman the antiquity and calm tenacity of Chequers and its annals might suggest some saving virtues in the continuity of English history and exercise a check upon too hasty upheavals, whilst even the most reactionary could scarcely be insensible to the spirit of human freedom which permeates the countryside of Hampden, Burke and Milton.

"Apart from these more subtle influences, the better the health of our rulers the more sanely will they rule, and the inducement to spend two days a week in the high and pure air of the Chiltern Hills and woods will, it is hoped, benefit the nation as well as its chosen leaders. The main features of this schemé are therefore designed not merely to make Chequers available as the official country residence of the Prime Minister of the day, but to tempt him to visit it regularly and to make it possible for him to live there, even though his income should be limited to his salary."

the best use of all persons, whether men or women, able to work in any industrial occupation or service"; and

(2) The Ministry of Reconstruction, "with a view to promoting the work of organisation and development after the termination of the present war."

There were transferred, by c. 44, to the Ministry of National Service all existing powers of the War Office in regard to military recruitment and the enforcement of the Military Service Acts. Defence of the Realm Regulations subsequently conferred on the Minister extensive powers designed to make the best use of the national man power.

The powers of the Ministry of Reconstruction were limited to consideration and advice and the formulation of schemes and recommendations for the post-war period.

Both Ministries were temporary in character, and designed to come to an end when their special functions were concluded.

In connection with new ministries, it is perhaps worth noting the institution for the first time in this country of "Ministers without portfolio." Special provision was made for these Ministers in this Act to the effect that "where before the passing of this Act a member of His Majesty's Privy Council has been appointed a Minister of the Crown with a salary, he shall not by reason thereof be deemed to have been or be incapable of being elected or of voting in the Commons House of Parliament, etc."

Military Service.—Three Acts (cc. 12, 26, 36) in relation to military service were passed in the course of the session. The first enabled exceptions from compulsory military service to be reviewed in the case of men whose exemption was due to previous rejection on the ground of health, or the previous relinquishment of or discharge from naval or military service.

The second enabled His Majesty to enter into conventions with foreign countries "allied or associated" with Great Britain in the war by which mutual liability to military service was imposed on the nationals of both countries, the effect being, as respects nationals of the countries in question, that the Military Service Acts in Great Britain applied to them as they applied to British subjects. It was understood, of course, that a corresponding liability was to be imposed by the law of the contracting State upon British subjects in that State, and provision was made for subjects of the contracting State being given an opportunity of returning to their own country and submitting themselves to the Military Service Law there.

The third enabled certificates of exemption to be cancelled which had been granted on occupational grounds.

Miscellaneous.—Provision was also made during the session:

1. For relieving railway companies whose railways are "under the

control of His Majesty" from keeping separate accounts in respect of railway passenger duty (c. 3).

2. For abolishing the necessity for summoning Grand Juries (c. 4.)

3. For enabling ecclesiastical services to be suspended (c. 5).

4. For the suspension of the Coal Mines Regulation Act, 1908, in respect of all mines (*e.g.* metalliferous mines) to which that Act applies, as well as in respect of coal-mines, for which section 4 of the Act of 1908 expressly provides (c. 8).

5. For the further prolongation of Parliament and postponement of local elections (cc. 13 and 50).

6. For the mode of application of the National Insurance Acts to persons suffering from disablement in consequence of the war (c. 15) and other amendments in the National Insurance Acts (cc. 62 and 63).

7. For dispensing with the ordinary meetings of approved societies, friendly societies, and trade unions (c. 16).

8. For reducing the number of jurymen required for the purpose of coroners' inquests (c. 19).

9. For the compulsory billeting of civilians engaged on work of national importance (c. 20).

10. For the relief of debtors and small tenants, especially in relation to liabilities and disqualifications arising out of certain contracts (c. 25).

11. For expediting the confirmation of executors in Scotland to estates of persons serving in the naval or military service during the war (c. 27).

12. For a temporary increase in the amount of compensation payable under the Workmen's Compensation Acts (c. 42).

13. For depriving of their rights and privileges peers of the realm and British princes who, during the war, had borne arms against His Majesty, after inquiry by a Committee of the Privy Council appointed by the King.[1]

14. For confirming an agreement as to coal-mines with a view to stimulating production, and for a division of profits between the more prosperous mine-owners and those whose mines could only be worked at a loss (c. 56).

15. For amending the law as to testamentary dispositions by soldiers and sailors (c. 58).

16. For perfecting and bringing up to date the register compiled under the National Registration Act, 1915 (c. 60).

17. For amending the Naval Discipline Act in respect of the delega-

[1] As a result of inquiry by the Committee, the following have been deprived of their privileges: the Duke of Cumberland, the Duke of Albany, Prince Ernest Augustus (Duke of Brunswick), and Viscount Taaffe.

The Act provides for enabling the successor of any degraded peer or prince to apply for the restoration of the family privileges.

tion of powers by commanding officers in connection with courts martial (c. 11).

18. For revising the methods of administration of service pensions (cc. 14, 37, 54).

Provision limited to the state of war was also made as to the appointment of Wesleyan Ministers (c. 29), the provision of allotments in Ireland (c. 30), allowances to wives and children of constables in military service (c. 36), qualifying examination for solicitors (c. 43), and the general amendment of the Munitions of War Acts (c. 45).

IV. Defence of the Realm Regulations.

A review of the year's legislation would be incomplete without a reference to the regulations made under the Defence of the Realm Acts.

Continuing the practice of previous war years, a Committee appointed by the Government, and representing all Departments interested, met periodically and prepared for submission to His Majesty in Council successive batches of regulations dealing as necessity arose with almost every conceivable phase of human activity; and it was by this method of legislation that the greater proportion of the most vital measures required for the efficient conduct of the war were secured.

By the end of the year 1917 the regulations amounted to nearly 205 in number, and many of them were merely covering authority for the making of departmental orders, of which, to take only one example, the orders issued by the Ministry of Food and the Board of Agriculture under the regulations dealing with the control of food supplies and the stimulation of food production constitute in themselves a formidable volume of law.

It would be impossible, in a review of this nature, even to summarise the regulations passed during the year, which, besides dealing with such definitely war measures as the censorship, the output of munitions, the movements of the civil population, and precautions against air-raids, included important and far-reaching provisions in relation to supplies in general, means of production, the control of transport and shipping, the distribution of man power, the use of lights and sounds, banking and exchange transactions, and innumerable other matters of essential importance, besides many smaller matters. Whilst the interference with individual liberty and private property, which was undoubtedly affected by these regulations, gave rise naturally to no little complaint and criticism, experience amply proved that in times of national emergency such as existed throughout the year under review, some process of legislation on important matters which is not subject to the delay and publicity of parliamentary procedure is vitally necessary for accomplishing the national purposes.

2. ISLE OF MAN.

[*Contributed by* L. S. KNEALLE, ESQ.]

During the year eleven Acts were passed by the Manx Legislature, but none of them is of sufficient importance for notice.

3. JERSEY.

[*Contributed by the* VISCOUNT OF JERSEY, E. T. NICOLLE, ESQ.]

The only Act of the States of any importance is the Military Service Act confirmed by Order in Council of February 6, 1917, which is modelled on the English Acts. The Militia Law was suspended during the period of the war.

II. NORTH AMERICA.

1. ALBERTA.[1]

Acts passed—56; Public—44; Local and Private—12.

Farm Loan.—No. 10 provides for the lending of money on first mortgages on farm lands in the province up to 40 per cent. of their appraised value, calculated on the basis of value and the productiveness when the improvements in respect of which the loan is desired have been made. The maximum amount that can be loaned to any one person is fixed at $5,000.00.

The borrower must be actually engaged in, or intending to be engaged in, agriculture, stock raising, or dairying, and must satisfy the board that he has experience and ability to carry on the same successfully.

The rate of interest charged on loans shall be sufficient to pay the interest on the money raised for loan purposes by the sale of bonds or other securities and the costs of raising the money and the expense of conducting the business of the board.

Every mortgage shall be for the period of thirty years and shall provide for the payment on January 1 in each year of equal annual instalments of principal and interest so as to repay the loan within the period mentioned. Any mortgagor may pay off his mortgage in full after it has run one year upon payment of a bonus equal to six months interest or after the mortgage has run five years without any bonus. After the expiration of five years from the date of the mortgage the mortgagor shall have the privilege of paying on any interest day on account of the mortgage the sum of $25.00 or any multiple of $25.00.

[1] Based upon the official synopsis by J. D. Hunt, Clerk of the Executive Council.

The loan business shall be administered by a Farm Loan Board, to consist of not less than three or more than five persons, to be known as directors, and the general management of the affairs of the board shall be in the hands of a Commissioner of Farm Loans, who shall devote all his time to the performance of the duties of his office. The commissioner and the directors of the board shall be appointed and their remuneration fixed by the Lieutenant-Governor in Council.

The board has power to employ such persons as may be required for the transaction of its business and may fix their remuneration.

Where loans are required for the making of improvements advances may be made by instalments as the work progresses, but in no case shall the advance on account of a loan for improvements exceed the proportion which the work done at any time bears to the entire work undertaken.

The sum of $10,000.00 is appropriated for the purpose of the organisation of the board and the putting into effect of the Act.

The net amount of securities outstanding at any one time in connection with farm loans shall not exceed $10,000,000 without further legislative authority.

Co-operative Credit.—Act No. 11 makes provision whereby from thirty to one hundred persons carrying on farming, ranching, stock-raising, dairying or other like operations, or agreeing to carry on such pursuits within one year, inside a radius of thirty miles from the location chosen as the chief place of business, may organise as a co-operative society for the purpose of obtaining short-term loans for its members upon the individual security of the borrower, backed by the credit of the society and the lender guaranteed against loss by the Province to an amount equal to one-half the capital stock of the society and by one or more municipalities for an equal amount.

Organisation may be obtained by at least thirty persons signing a petition, setting out their respective addresses, occupations, and lands, and that they desire to be organised into a co-operative society, giving the name of the proposed society and the proposed chief place of business, the names of four subscribers who shall be provisional directors and the name of one person to act as secretary-treasurer until the organisation has been completed.

Each subscriber must take not less than $100.00 worth of stock, pay $20.00 on account in cash and give his note for the balance, payable on the ensuing December 31.

The society may arrange with any chartered bank, financial corporation, firm or person, called the lender, for loans to the members for any or all of the following purposes:

(*a*) The purchase of seed, feed and other farm supplies;

(*b*) The purchase of implements and machinery;

(*c*) The purchase of cows, horses, sheep and other live-stock;

(*d*) The payment of the cost of preparing for cultivation and of carrying on the season's operations.

The society is also empowered to act as agent for the members in purchasing any article or commodity required and in selling any products produced by them.

The rate of interest in every case shall be that agreed upon between the society and the lender.

Live-stock Encouragement.—Any five or more persons engaged in practical farming in the province may jointly apply to the Live-stock Commissioner for a loan not to exceed $500.00 each for the purpose of buying cows and heifers. Any person who has obtained a homestead entry under the provisions of The Dominion Lands Act is eligible as a member, and if he signs a note before he is of age the Act (c. 9.) makes him liable the same as if he were of age at the time of signing.

The choice of stock shall be confined to cows and heifers, except that a portion of the loan, not to exceed 10 per cent., may be used by one or more members for the joint purchase of a pure-bred bull.

If the commissioner decides, after inquiry, that the association is one that should receive financial assistance under the Act, he shall notify the lender, stating the maximum of the guarantee to be given, which shall not exceed $500.00 for each member, and the proportion of the proposed loan each individual member is to receive. It is not necessary that each lender shall receive the same amount.

The lender then takes from the association the joint and several note of the members for the total amount to be advanced to all the members, as approved by the commissioner, for a period not exceeding five years with interest at not more than 6 per cent. per annum payable yearly.

The lender also collects from each purchaser a fee of $1.00 for each $100.00 of his portion of the loan to be borrowed, which amount is sent to the commissioner to cover the necessary expense connected with the loan.

The lender sends the note of the association to the commissioner, and he passes it on to the Provincial Treasurer, who guarantees to the lender, on behalf of the Province, the payment of the note and interest and then returns the note to the lender.

Upon receipt of the joint and several note of all the members, guaranteed by the Province, the lender deposits in some chartered bank to the joint credit of the borrower and the Live-stock Commissioner the portion of the loan to which each member is entitled.

The borrower then buys at a reasonable price, and with the approval of the commissioner, live-stock of the kind mentioned in his application. The live-stock so purchased shall be branded with a brand recorded in the name of the department in the right of the Province,

and all the offspring of all cows and heifers purchased under the provisions of the Act, and in like manner all the offspring of the female offspring of the same and in like manner any further offspring, shall from time to time be branded with said brand.

As soon as the commissioner is satisfied that the provisions of the Act have been complied with he shall join with the purchaser in paying out by cheque from the bank account the purchase price of the stock so purchased.

No execution, distraint, attachment or garnisheee shall be of any force or effect against any of the live-stock purchased under the provisions of this Act or the offspring thereof, nor against the money which may be borrowed on the note guaranteed by the Treasurer, nor against the proceeds of the sale of any such live-stock or their offspring.

No purchaser shall part with the possession of, sell, mortgage, hypothecate or otherwise deal with any of the live-stock purchased or the offspring thereof, until the note given by the association, together with all the interest thereon, has been fully paid and satisfied; provided, however, that the borrower may sell any male offspring over two years of age, and he may also, with a consent in writing of the commissioner, sell any of the other live-stock or the offspring and substitute other live-stock approved by the commissioner or may apply the proceeds in reduction of the joint note as the commissioner may direct.

A borrower may also dispose of all stock in his possession acquired by him under the provisions of this Act to any other person if the proceeds of such sale are paid to the lender to at least his fair proportion of the said note or provided that the said other person accepts to the satisfaction of the lender and the commissioner the said purchaser's liability on the said note and agrees to discharge the same.

In case the commissioner for any reason considers that the borrower is not properly caring for the stock purchased, or that he has violated the provisions of the Act, or if the borrower has made default in payment of his fair proportion of the note given by the association, or the interest thereon, he shall have the right and power to take possession of all the cattle belonging to the borrower acquired under the Act, including all offspring, and to dispose of same by private or public sale and to apply the net proceeds in payment or part payment of the said note. If the said proceeds do not amount to sufficient to pay the borrower's fair proportion of the note, the commissioner may bring an action against the borrower for the balance of his fair proportion of the note or for such larger amount, not exceeding the amount of the said note, as he considers advisable, and may recover judgment for same.

If, however, the borrower has paid his fair proportion of the note the commissioner shall, if possible, collect his fair proportion from each of the other borrowers who have not paid their fair proportions. Failing to

thus collect, the commissioner may take possession of any cattle of any borrower acquired under the Act and may sell and dispose of the same, or a sufficient portion thereof, to pay the balance of the said note, provided that he shall, as far as possible, collect from each his fair proportion of the debt.

Liquor Licensing.—A number of amendments were made to the Liquor Act by c. 22 with a view to making certain provisions more definite and to make the Act generally more workable.

Dentists and veterinary surgeons are required to file monthly statements giving the name and address of every person to whom or on whose account liquor has been supplied, with date and quantity, the same as the original Act requires of vendors, druggists and physicians.

Chemists and druggists are allowed to have and sell for medicinal purposes any combination of alcohol with any other liquid prepared according to any formula approved by the Lieutenant-Governor in Council.

The quantity of liquor that may be lawfully kept in a private dwelling-house is limited as follows:

"No person within the Province of Alberta shall have or keep in his private dwelling-house a quantity of liquor exceeding one quart of spirituous liquor and two gallons of malt liquor."

Where a person residing outside of the radius of express delivery sends for liquor to be brought in by express he, or a member of his family residing with him, may carry the quantity of liquor allowed him by the Act from the express office to his private dwelling.

In case a person is found upon a street, highway or in any public place in an intoxicated condition he may be prosecuted for such offence; and if he refuses to tell the name of the person from whom and the place where he obtained the liquor, which caused the intoxication, he is liable to imprisonment for a term not exceeding three months.

It shall be unlawful for any person to canvass for, receive, take or solicit orders for the purchase or sale of any intoxicating liquor or to act as agent for the purchase or sale of the same.

It shall be unlawful for any person to distribute, publish or display any advertisement, sign, circular, letter, poster, handbill, card or price-list, naming, representing, describing or referring to any intoxicating liquor or the quality or qualities thereof or giving the name or address of any person manufacturing or dealing in intoxicating liquor, or stating where such liquor may be obtained.

Police Force.—The withdrawal by the Dominion Government of the Mounted Police rendered necessary the establishment of a provincial police force by c. 4.

The Act places this force under the control and management of a Board of Commissioners consisting of three members.

The board has the appointment of a superintendent, an assistant superintendent, inspectors, special constables and constables, not exceeding 150 in number, and is authorised to employ such other persons and to do all acts, matters and things necessary for the carrying out of the provisions of the Act. Every constable appointed to the force, other than a special constable, must be a British subject, of sound constitution, active and able-bodied, able to read and to write the English language legibly, and must not be less than twenty-one nor more than thirty-six years of age.

A special duty is imposed on any member of the police force where he believes that liquor intended for sale or to be kept for sale or otherwise in violation of the Liquor Act is contained in any room, shop, store, hut, tent, wigwam, or building, place or enclosure, vessel, canoe, carriage, wagon, cart or sleigh, to obtain an order from the superintendent or other police officer or a warrant from any justice of the peace, and to search such place or means of conveyance, and to break and destroy all receptacles, and to pour out and destroy all spirits, strong waters, spirituous liquors, wines or fermented or compounded liquors or intoxicating drinks.

Reclamation of Lands.—Act No. 15 was prepared with the approval of and by arrangement with the Dominion Government and provides for the drainage and reclamation of unpatented lands under four different schemes.

Part I. of the Act governs small drainage projects, where the area to be reclaimed does not exceed 1,280 acres and the cost of the proposed work, as shown by the estimates of the engineer appointed by the Minister of the Interior, does not exceed $2,000.00.

Owners or entrants for fractional quarter sections desiring permission to drain small lakes or swamps in order to secure patent for the full area of the quarter section, or parties desiring to reclaim small areas of swamp lands in order to purchase same, proceed under this Act instead of under the Private Ditches Act. The party or parties desiring to proceed with the work make application to the Minister of the Interior for permission to drain and reclaim the lands. The Minister will appoint an engineer to prepare plans and an estimate of the cost of the proposed work.

Part II. of the Act provides that where the Minister of Public Works deems it necessary that swampy Dominion lands should be drained, in order to facilitate the building of roads through the district, he may, after obtaining the consent of the Dominion Government to the drainage scheme, make application for the purchase of such Dominion lands to be reclaimed as will, in the opinion of the Minister, be sufficient when sold to cover fully the cost of the drainage work and road work, and such lands may be purchased by the Province from the Dominion Government.

Part III. provides that where, in a drainage district petitioned for

under the Drainage Act, vacant Dominion lands are included among the lands to be benefited, the Province may purchase such lands and after drainage shall sell the same by public auction as provided for in Part II.

Part IV. makes provision by which the Dominion Government, as owner of Dominion lands requiring drainage, may send an engineer and have reports, plans and estimates made, which, having been approved by the Minister of the Interior, shall be submitted to the Minister of Public Works and he may, with the approval of the Lieutenant-Governor in Council, constitute the area a drainage district, after which the work shall be carried on under the direction of the Minister of the Interior in accordance with the Drainage Act.

The whole cost of such drainage shall be borne by the Dominion Government, and no debentures are to be issued in connection with any such drainage district.

Dower.—Act No. 14 gives a wife a life-interest in the interest of her husband in the homestead; and "homestead" is interpreted to mean "the land on which the house occupied by the owner thereof as his residence is situated, consisting of not more than one quarter section," or in a city, town or village "the land, consisting of not more than four lots as shown on a duly registered plan, on which the house occupied by the owner thereof as a residence is situated."

The Act comes into force on the first day of May, 1917, after which date a married man cannot transfer, sell, mortgage or otherwise dispose of the homestead, as defined in the Act, without the consent in writing of his wife, and after said date every disposition by will of a married man and every devolution upon his death intestate shall, as regards such homestead, be subject and postponed to an estate for the life of such married man's wife.

The residence of a married man shall not be deemed to have been changed unless the change is consented to in writing by his wife.

Seed-grain.—By Act No. 8 the Provincial Treasurer or the Minister of Agriculture may authorise any person to advance seed grain or any chartered bank in the province to advance for the purchase thereof money to owners or occupiers of patented lands, or to the wives or other representatives of persons being the owners or occupiers of patented lands who are on active military or naval service. Provision is made whereby the province may guarantee the payment of the value of the seed-grain or of any moneys advanced to purchase seed-grain to the extent of $75,000.00, and by reason of such guarantee the Provincial Treasurer is entitled to take security by way of any of the following methods: promissory note or notes, real estate mortgage, chattel mortgage.

The Act of 1915 gave the Dominion Government a first lien on the lands of any person who obtained seed-grain, fodder for animals,

or other goods by way of relief. An amendment (c. 32) provides that "such charge shall not as to any lands acquired by such person after the date of the creation of the charge apply save as to the interest of such person therein, and shall not have priority over mortgages, liens or other encumbrances registered against such lands prior to the date of acquisition; also, that if any such charge is not entered in the register as hereinafter provided prior to January 1, 1917, it shall not have priority over any instrument registered prior to the entry in the register of such charge."

Game.—An amendment (c. 35) provides a close season for ducks and geese between December 15 and September 1 in the following year;

That during the open season not more than thirty ducks shall be killed by any one person in any one day, and not more than two hundred by any one person in any one season;

That grouse, partridge, pheasants, ptarmigan and prairie chicken are protected until October 1, 1918.

Wolf Bounty.—An amending Act (c. 34) provides for the payment on the presentation of a warrant or warrants in form approved of by the Minister, and issued by a duly appointed inspector, of a bounty on wolves as follows:

On adult male timber wolves, each	$10.00
On adult female timber wolves, each	20.00
On timber wolf pups, each	1.00
On adult female prairie wolves (when killed between May 1 and September 1 in any year), each	2.00

Stallion Enrolment.—Act No. 16 provides for the formation of a Board of Inspection, consisting of the Provincial Veterinarian, a nominee of the Alberta Horse Breeders' Association and a nominee of the Alberta Provincial Horse Breeders' Association.

The power and duties of the board shall be to recommend the issue of certificates of enrolment under the Act and to make recommendations to the Minister respecting the passing by him of rules and regulations for the better administration of the Act.

Official Guardian.—Provision is made in c. 19 for the appointment of an official guardian, whose duty shall be to—

(*a*) act as guardian *ad litem* of infants;

(*b*) act in the administration of estates upon order of the Court;

(*c*) act as custodian of the property of missing persons, convicts or deceased persons;

(*d*) act as judicial trustee of the estate of any deceased person upon order of the Court;

(*e*) act as guardian of any infant made a ward of the Court under the Children's Protection Act;

(*f*) act in such other capacity and do such other acts, matters and things as an official guardian is authorised or required to do.

The official guardian may apply at the end of two years from the date of the issue of letters probate or administration, or at any other time he may deem it advisable, to compel an administrator or executor to have his accounts brought before and passed upon by a judge, and he shall be served with notice of every application to a Surrogate Court for a probate of the will or letters of administration where any infant is interested in the estate, and he shall protect the interests of such infant.

Legislative Assembly.—Act No. 38 provides that in the event of a dissolution of the Legislative Assembly before the war is over twelve members named in the Act, who have enlisted for overseas service and are under military control and for that reason cannot take part in any election, shall be returned to the next Legislative Assembly as if they had been duly nominated and elected in accordance with the provisions of the Election Act.

Military Representation.—Act No. 12 provides that there shall be two members for the province at large in the next legislature, to be elected by the soldiers and nurses from Alberta in Great Britain and Ireland, France and Belgium. Full provision is made for the taking of the vote through the returning officer, John A. Reid, Agent-General for Alberta in London.

The following persons are entitled to vote:

Every person serving in the military forces of Great Britain and her allies in Great Britain and Ireland, France or Belgium, raised for service in the present war, who at the time of enlistment was a resident in Alberta or who resided in Alberta for six months immediately preceding the date on which he or she left the province for the purpose of being appointed to or enlisting in or joining such forces.

Savings Certificates.—No. 13 makes provision whereby any person who wishes to invest in an absolutely safe security at a fair rate of interest may purchase Provincial Savings Certificates in amounts of $10.00, $100.00 and $1,000.00 respectively. These certificates may be bought at par from the Provincial Treasurer, they are payable on demand and bear interest at 5 per cent per annum, compounded half-yearly. They give the small investor an excellent opportunity to obtain a good rate of interest on a security that can be turned into cash at any time. The certificates may be called in by the Provincial Treasurer after they have been issued three years.

Factories.—No. 20 contains a great many important provisions for the protection of the life, health and well-being of the employees in factories, shops and office buildings. The Act is on the lines of legislation in the United Kingdom.

No person under the age of fifteen years shall be employed in any factory, shop, office or office building.

No person shall be employed by any employer in any factory, shop, office or office building at a wage less than $1.50 per shift, except in the case of apprentices, who may be paid a wage of not less than $1.00 per shift.

The hours of labour for any person in any one day working-day shift shall not be earlier than seven o'clock nor later than six o'clock, and the hours of labour for night-shift shall not exceed eight hours No person shall be employed for more than one shift in one day without permission from the inspector.

Education.—An amendment to the School Ordinance provides that where two or more districts are formed into a consolidated district the board of such consolidated district may, with the consent of the Minister, take over the assets and assume the liabilities of the said districts, or any one or more of them, upon such terms and conditions as may be agreed upon.

The Act in regard to the power of school trustees to provide for the conveyance of pupils to and from school and pay the cost (No 43) has been changed so as to read as follows:

"Shall have power to supply vans or conveyances to be approved by the department for the conveyance of pupils to school and may determine the route such vans or conveyances shall travel and what pupils in the opinion of the board it is necessary to so convey, and in case there shall be any dispute as to the distance any pupil is required to travel without conveyance to a van route or to the school the same shall be referred to an inspector, whose decision shall be final."

The powers formerly held by every town district to provide special departments to employ a health officer and to engage a superintendent and to furnish luncheon at the noon hour have been extended to all districts, with the proviso that no superintendent shall be engaged in any school district except where more than twenty teachers are employed. Further power is given to furnish the pupils with text-books, exercise-books, pens, pencils and other supplies either free of charge or at a price to be fixed by the board.

Hospitals.—By the provisions of Act No. 5 the organised portions of the province, that is, the areas incorporated as Local Improvement Districts, Rural Municipalities, Villages, Towns and Cities (of a population of less than 500) will be grouped into Hospital Districts, and these organisations may unite to provide hospital accommodation within such Hospital District for the people living within its boundaries. This provision may be made by an arrangement with an existing hospital, or by the erection or purchase of a hospital to be operated under the directions of the Hospital District. The business of the Hospital District will be

administered by a board appointed by the councils of the organisations within the district. The regulations which will govern the operation of these hospitals, as well as the charges made for such accommodation, are matters which will be dealt with by the Hospital Board. A Hospital District may make arrangements whereby all residents will be given free hospital accommodation and medical attendance at the expense of the municipalities, such expense to be met out of the revenue derived from the taxes levied ; or the arrangements may simply provide for hospital accommodation, to be paid for by the municipality, leaving the doctor's fees to be paid by the individual. The rate of taxation which may be levied for capital expenditure in connection with any hospital scheme is limited to a maximum of two mills on the dollar. From information available as to the expense attached to the operation of a hospital of this kind, this amount will, no doubt, provide ample funds.

This legislation has been placed on the Statutes after very careful consideration, and reference to the different organisations interested, namely: the Rural Municipality and Local Improvement District Association, the United Farm Women of Alberta, the United Farmers of Alberta, and the Free Hospitals League for their consideration, before it became law. It should be of great benefit, more particularly to the rural communities, by placing in their hands the power whereby the electors may make provision for obtaining for the people living in the country medical attention without undue expense and without requiring them to make long journeys.

Patriotic Tax.—Act No. 17 makes provision whereby any urban or rural municipality or local improvement district may levy a tax to provide a fund to be paid over to the Canadian Patriotic Fund of Alberta. The rate of taxation to be levied for this purpose is not limited, the amount of the rate being a matter which is left entirely in the hands of the council of the municipality or local improvement district.

All property of persons who have enlisted for overseas naval or military service of His Majesty's Allies is exempt from this tax.

Hail Insurance.—During the year 1916, on account of the heavy hail losses, the Hail Insurance District was not able to pay all awards. Provision has been made by an amendment (c. 22) to the Act whereby the system of taxation for hail purposes is changed from a flat rate on all assessable lands to a flat rate of five cents per acre on all assessable lands and an additional rate on all lands under crop such as will be sufficient, together with the flat rate of five cents per acre, to pay all hail losses for the year, administration expenses and unpaid awards of former years. This will make it absolutely certain that any farmer in the Hail District suffering loss will receive payment in full of his claim, and provision has been made by legislation whereby the province has guaranteed

a loan to the Hail District so that it may be in a position to pay up all outstanding unpaid awards, such loan to be repaid during the next two years out of the hail tax levied by the Hail District.

Inns.—Under c. 6 any city, town or village in the Province is given power to pass by-laws licensing, regulating and governing all houses of "public accommodation."

Local Authorities.—An amendment (c. 26) provides for councillors holding office for two years in place of one, as was formerly the case. It was felt that by having a councillor in office only for one year a good deal was lost to the municipality in the shape of experience gained during the one year's service. This amendment will conserve this experience for the use of the municipality, and will provide also for more continuity in the work being carried on by the municipality.

To assist residents in rural municipalities which may be so located as to make it impossible for a Hospital District to be organised, power has been given to the council to make a grant to induce a physician to locate in the municipality. It is clear that there are likely to be some rural organisations that will not be in a position to become part of a Hospital District scheme for some time, and therefore it seemed advisable that power should be given whereby they might assist in securing the services of a physician for the ratepayers if they so desired.

Medical Registration.—The Medical Profession Act is amended by c. 3 as follows:

"Every medical practitioner registered in the Medical Register of the United Kingdom of Great Britain and Ireland, upon proof to the satisfaction of the Registrar of the College of Physicians and Surgeons of Alberta that he is so registered, and that he is of good character, and that he is by law entitled to practise medicine, surgery and midwifery in the United Kingdom, shall, on application to the said registrar and on payment of such fee, not exceeding $100.00, as shall be the fee which by regulation of the council shall from time to time be charged for registration of all persons entitled to be registered in the Province of Alberta, be entitled without examination in the Province of Alberta to be registered under the provisions of the Medical Profession Act."

Wills.—Any soldier being in actual military service, or mariner or seaman being at sea, may, notwithstanding he is not of the full age of twenty-one years, dispose of his personal property in the manner in which he might have done so under the provisions of the law of England as it stood on July 15, 1870.

Any soldier, seaman or mariner in actual military or naval service may dispose of his real or personal property by a will signed by himself, which will need not be in any particular form nor shall it require any attesting witness or witnesses.

These amendments shall be deemed to have been in force from and

after August 1, 1914, except as to estates for which letters probate or administration have been issued prior to the passing of this Act (No. 3).

2. BRITISH COLUMBIA.

[*Contributed by* E. C. MAYERS, ESQ.]

Acts passed—77; Public, 75; Private, 2.

Land Settlement.—The legislation of the session was distinguished by a further instalment of Acts extending the scope of governmental activity. Perhaps the most important Act is the Lands Settlement and Development Act (No. 34), which constitutes a lands settlement board provided with an appropriation of public funds for the purpose of lending money to those engaged in agriculture. This Act, together with the Agricultural Act, 1915, Amendment Act, 1917, being No. 3, is intended to carry out in a more satisfactory form the objects aimed at by the Agricultural Act, 1915. The lands settlement board takes the place of the agricultural credit commission with an extension of its powers. S. 39 permits a pre-emptor or an intending purchaser of Crown land to pledge his pre-emption or the right acquired by his certificate of purchase and receive a loan under the provisions of the Act. By s. 41 *et seq.* the board is empowered to undertake agricultural operations and for that purpose to receive lands from the Crown or by purchase from private owners. The Loan Act, No. 38, empowers the Lieutenant-Governor in Council to borrow 2,000,000 dollars for the purposes of the Lands Settlement Act.

Mineral Survey.—The Mineral Survey and Development Act, No. 41, provides for a mineral survey of the Province (Part I.) for the assistance of prospectors and miners (Part II.) directing the Government resident engineers to assist by imparting information, examining samples, applying tests, reporting on the cost of roads and bridges and generally aiding the prospectors and miners. Part III. compels every person contracting to purchase any mineral claim or mine to furnish to the Gold Commissioner security for the payment of all semi-monthly wages of those engaged in the operation of the mineral claim or mine, and casts upon the owner of the mineral claim or mine, who has contracted to sell, the duty of ascertaining whether such security has been given, and of inserting in the contract an undertaking by the intending operator to pay all his workmen semi-monthly. Part IV. is intended for the protection of investors. It empowers the Government resident engineers to notify the Minister of Mines of any untrue statements with regard to mines or mineral properties upon which shares in a company are being attempted to be sold, and it also empowers the Minister to take such steps as may be necessary to prevent injury to investors.

The Ore Purchasing and Treatment Act, No. 43, gives power to the

Minister of Mines to construct and operate sample works, concentrating plants, custom smelters or refineries and other plants and processes suitable for the treatment of ore produced within the Province.

Department of Labour.—The Department of Labour Act, No. 32, creates a Minister of the Crown charged with the duty of superintending the conditions of labour within the province, and confers upon him very extensive powers in the way of obtaining information from industrial societies, trade unions, confederations of labour and employers which may be useful in the carrying out of his duties.

Labour Legislation.—The Semi-monthly Payment of Wages Act, No. 73, compels all those engaged in the business of mining, foundries and machine shops, lumbering, shipbuilding, pulp or paper mills or fishing to pay their workmen twice a month. The Mechanics Lien Act Amendment Act 1917, No. 40, confers upon labourers a preferential lien to the extent of twenty-five days' wages upon any mine or mineral claim where they have been engaged in the work, and provides that such liens shall take priority of all other charges, including mortgages.

Elections.—An attempt was made to combat the corruption attendant upon the electoral system by an act passed for the purpose of instituting an investigation into the elections held at Fort George and Vancouver (c. 21), and by the Public Inquiries Act Amendment Act, 1917, No. 30. The Lieutenant-Governor in Council is empowered by the latter to cause inquiries to be held into all matters relating to the election of any member of the Legislative Assembly or any payment or contributions for campaign or other political purposes, or for the purpose of obtaining legislation or obtaining influence and support for franchises, charters, or any other rights or privileges from the Legislature or Government of the Province. The Prohibition Overseas Vote investigation Act, No. 50, provides for an investigation into the charges made in connection with the taking of the votes which were to decide the question of whether the sale of intoxicating liquors was to be prohibited within the province.

An extension of the franchise was made by the Provincial Elections Act Amendment Act, 1917, No. 23, whereby the vote is conferred upon women of the province.

The Municipal Proportional Representation Act, No. 51, permits the adoption by any municipality of the system of proportional voting.

Civil Service.—An attempt to curb abuse of patronage is made by the Civil Service Act, No. 9, which places the appointment to a very large number of the civil offices of the Crown within the Province in the hands of the civil service commission.

Forests.—The provisions of the Forest Act Relief Act, 1915, enabling the fees for licences to fall into arrear have been modified by the Forest Act Relief Act Amendment Act, 1917, No, 25, which gives power to the

Minister of Lands in the event of a failure of timber retarding the development of the timber industry, to call upon the holders of special timber licences, the fees of which are in arrear, to pay such arrears with interest, and in default to suffer the forfeiture of the licences.

Taxation.—Taxation has been increased by the Succession Duty Act Amendment Act, 1917, No. 60, imposing additional death duties on estates exceeding $50,000.00 and raising the rates both upon all successions and cumulatively as the amount bequeathed increases. New taxation has been imposed by the Poll Tax Act, No. 65, which attempts to sweep in all those not already contributing to the provincial revenues, and by the Amusements Tax Act, No. 63, which takes a percentage of of the price of admission from all those attending theatres and other places of amusement. The rates of ordinary taxation have been increased by the Taxation Act Amendment Act, 1917, No. 62, in respect of both real and personal property and income, and special taxation for the year 1917 was provided by the Surtax Act, No. 66. The whole subject of taxation within the Province is to be investigated by a Board constituted under the Board of Taxation Act, No. 64.

Supreme Court Procedure.—By the Supreme Court Act Amendment Act, No. 15, provision is made for substituted service in the case of parties who cannot be found within the jurisdiction and against whom a cause of action has arisen.

War Relief.—By the War Relief Act Amendment Act, No. 74, the burden of proving in all cases within the Act that the defendant is not entitled to its benefit is cast upon the plaintiff.

Land Registration.—By s. 2 of the Land Registry Act, No. 33, the contractual right of the mortgagee to exercise all his remedies concurrently is taken away by the Legislature, and the registration of an order absolute for foreclosure entails the extinguishment of the mortgagor's personal covenant. By s. 7 all applicants for registration are compelled to produce a certificate of taxes having been paid, and thus in effect are prevented from acquiring title to any lands upon which taxes are in arrear inasmuch as registration is made a condition precedent to the acquisition of any interest in the land.

Municipal Corporations.—By the Municipal Act Amendment Act, No. 45, s. 66, whereby corporations are empowered to sue to restrain the breach of any by-law, resolution or regulation of the Council or any provision of the Act or with regard to interference to any street or public property, without the necessity of joining the Attorney-General.

Companies.—By the Companies Act Amendment Act, No. 10, extra-provincial companies unlicensed or unregistered are prevented from acquiring or holding land or any interest therein within the Province. The Trust Companies Act Amendment Act, No. 11, excepts from the operation of the Act chartered companies, loan companies, religious,

charitable, benevolent or fraternal societies and extra-provincial companies appointed executors or trustees of a will without the Province and approved by the Lieutenant-Governor in Council, and gives to the Lieutenant-Governor in Council power to exempt extra-provincial trust companies whose business in the Province is confined to acting as trustee under any mortgage or charge created by an incorporated company for securing bonds or debentures.

3. MANITOBA.

[*Contributed by the* Hon. H. A. Robson, K.C.]

Acts passed—110; Public 103.

Agriculture.—The Manitoba Farm Loans Act (No. 33) makes provision for the establishment of "The Manitoba Farm Loans Association," to be managed by a board of five members—three, including a Chairman or Commissioner, to be appointed by the Government and one each by the Union of Municipalities and the Grain Growers' Association respectively. The board may approve or reject applications for loans, issue certificates of ownership of shares, issue stock, bonds or other securities upon the security of first mortgages on farm lands, subject to the approval of the Lieutenant-Governor in Council, and do all things which the association in its corporate capacity may do when not forbidden by the by-laws.

The capital stock of the Association is $1,000,000, divided into 200,000 shares of $5 each.

Only borrowers for farm purposes are entitled to hold stock, and prospective borrowers must subscribe for stock to the extent of 5 per cent. of the amount of money required as a loan. Loans are to be used exclusively for agricultural purposes or to retire existing mortgages. The Association may secure money by selling bonds guaranteed by the Government. The money is to be lent at cost, plus the expense of handling same. By these means the Association expects to be able to lend to farmers at 6 per cent. plus the cost of floating the loans.

The Rural Credits Act.—No. 73 provides that farmers may organise Rural Credit Associations whereby each member puts up a certain sum of money, to form a nucleus. The Government advances twice the amount, and the municipality in which the association is formed subscribes the same amount as the Association. Loan applications are considered by a board of nine, consisting of three representatives each of the Society, the Municipality and the Government. This Board guarantees the loan and backs the farmer's note for the amount he wishes to have at his credit at the bank. The farmer draws on this credit as he desires for sowing his crop, buying stock or harvesting. The loan is to be a first charge upon the crop and upon the farmer's stock, building

and equipment, but the real basis of security is the farmer's ability to produce. All such associations are to be under Governmental supervision.

The Agricultural Societies.—The old "Agricultural Societies Act" passed in 1900 has been repealed and an entirely new Act (No. 1) passed. This Act provides that the Societies must take part in certain exhibition and competitive activities before acquiring a Provincial grant. Grants are standardised upon a basis of membership and prize money granted at exhibitions. The formation of such societies is placed under certain restrictions, and a supervisor is to be appointed to manage and regulate them. The Act further provides that the Government may demand that books and accounts of any such society be submitted to the Comptroller-General of Manitoba for examination.

The Demonstration Farms Act.—No. 24 empowers the Lieutenant-Governor in Council, on the advice of the Minister of Agriculture, from time to time to authorise the expenditure of such moneys of the Province of Manitoba as may be necessary to purchase, establish, equip and maintain farms for demonstration purposes at such places within the Province as are deemed advisable.

The Seed Grain Act.—No. 79 empowers the Council of any rural municipality to borrow in the name of and on behalf of a municipality such sum as shall appear to it to be required, but not exceeding the sum of $50,000 for the purpose of furnishing seed grain to farmers therein and to the wives or other dependents of persons therein being the owners of land who are serving, or have volunteered to serve in aid of His Majesty and his Allies in the present war.

The Game Protection Act.—No. 37 provides a permanent close season for prairie chicken and partridge, also for elk and deer. The beaver and otter season is open except between May 1 and November 1. An extra six weeks in the "fall" is allowed trappers in the north country, namely, from October 20 to December 1. An export price is placed on wild animals such as foxes, otters and other game.

The Main Provision of the Insectivorous Birds Act (No. 44) is as follow:

> No person shall at any time shoot at, trap, kill, take, catch, wound or destroy, or attempt to shoot, shoot at, trap, kill, take, catch, wound or destroy any of the insectivorous birds known as bobolinks, catbirds, chickadees, cuckoos, flickers, flycatchers, grosbeaks, humming-birds, kinglets, martins, meadowlarks, nighthawks or bull bats, nuthatches, orioles, robins, shrikes, swallows, wax-wings, whippoorwills, woodpeckers, wrens or any perching birds which feed chiefly on insects."

The Sheep Protection Act.—No. 82 provides for the protection of sheep by legalising the killing of vicious dogs found attacking sheep and providing damages against the owners of such dogs.

Education.—An Act respecting the University of Manitoba (No. 96) provides that a board of nine Governors shall be appointed by the Provincial Government to take office on June 1, 1917, to manage all business and fiscal affairs of the University of Manitoba and to lay down all lines of academic policy. The board will also have control of the University lands.

The present academic council of the University will be retained with the exception that the membership shall be reduced to twenty-seven members. The Government will exercise a measure of control over this body. Registration of denominational colleges is to be observed. They are, however, not to be represented upon the Board of Governors. The institution thus becomes a state University.

An Act Respecting School Attendance (No. 77) requires the attendance at school of children formerly at liberty to absent themselves if needed for the purposes of husbandry.

An Act to amend "The Public Schools Act" (No. 71) provides that no school officials may exclude children from school on the ground that their parents live outside the school district and have not paid the non-resident fee for such children. The trustee may sue the parents, but may not exclude the children.

Liquor Licensing.—An Act respecting agents for the sale of intoxicating liquor in the Province of Manitoba (No. 50) has been passed for the purpose of abolishing commission houses through which liquor has been ordered for consumption in the province since "The Manitoba Temperance Act" went into force.

Law Enforcement.—A Law Enforcement Board consisting of a Temperance Commissioner, a Judge of the Juvenile Court, and a Provincial Police Magistrate of the City of Winnipeg has been constituted (No. 48) by the Legislature to administer the military provisions of the Criminal Code, the Temperance Act, School Attendance Act and Juvenile Delinquent Act.

Local Government.—An amendment of the Municipal Act (No. 57) provides that women are eligible for the offices of secretary-treasurer, reeve, aldermen and councillors.

Patriotic Funds.—An Act to amend the Patriotic Levy Act (No. 67) provides for the raising of the patriotic levy from one and one-half mills on the dollar to two mills on the dollar. The object is to raise approximately $2,000,000.00 for patriotic purposes.

Mentally Afflicted.—An Act (No. 34) was passed providing for the establishment of a school for the feeble-minded within the province. Various amendments to the Lunacy Act were enacted by No. 51 for the protection of mild cases of insanity resulting among soldiers from the horrors and suffering of the war, and to protect the estates of insane persons.

Elections.—An amendment to the Election Act (No. 28) limits the expenses of a political party to $25,000.00 and a limit of a candidate's to $500.00 at an election. It provides for a measure of proxy registration; that railway men and travellers may vote prior to the day of the election if they expect to be absent on it; for a half-day holiday on election day; and for returns to be made by party organisations and candidates showing the sources of campaign funds and the total expenses in connection with elections.

Constitutional Appeals.—An Act (No. 18) was passed for expediting the decision of constitutional and provincial questions by referring them to a Court of Appeal or any judge thereof, without the formality of securing first what in most cases is a *pro forma* decision from the Court of King's Bench.

Companies.—An Act respecting the capacity of companies (No. 12) provides that any corporation or company heretofore or hereafter created by or under any general or special Act of the Legislature of Manitoba shall, unless otherwise expressly declared in the Act or instrument creating it, have, and be deemed to have had from its creation, the capacity of a natural person to exercise its powers beyond the boundaries of the province to the extent to which the laws in force, where such powers are sought to be exercised, permit, and to accept extra provincial powers and rights and shall, unless otherwise expressly declared in the Act or instrument creating it, have and be deemed to have had, from its creation, the general capacity which the common law ordinarily attaches to corporations incorporated by royal charter under the Great Seal.

Labour Legislation.—An amendment (c. 8) to the Building Trades Protection Act provides for the appointment of a Board of Employers and Employees to devise regulations for the protection of workmen on buildings or excavations.

The Shops Regulation Act was amended (c. 84) to provide that no person under the age of sixteen years may be employed in any shop, as defined by the Act, without furnishing a certificate or some other evidence of age to the employer. Messenger services were brought under the Act, and the employment of young boys at all hours of the night would thereby be prohibited.

Inns.—An Act (No. 42) respecting hotels and other places of public accommodation was passed, the chief provisions of which are as follows: "For the purpose of such administration there shall be established an office in charge of a director to be known as the "Director of Public Accommodation," who shall be appointed by, hold office during the pleasure of, and whose salary shall be fixed by the Lieutenant-Governor in Council."

4. NEW BRUNSWICK.

Acts passed—94; Public, 46.

Highways.—By No 3 the income from the motor vehicle tax is used for payment of interest, and providing a sinking fund for the repayment of loans raised for highways and highway works of a permanent nature.

Motors.—Among amendments in the Motor Vehicle Law, 1915, it is required by No. 21 that, in order to obtain a licence as chauffeur, an affidavit must be filed that the applicant has attained the age of eighteen years.

Liquor Licensing.—By No. 22 amendments are made in the law of 1916 "for the suppression of traffic in intoxicating liquor." Advertisements are forbidden. Liquor which for any reason cannot be delivered to the person for whom it is intended is to be "destroyed" by the police under a magistrate's order, or may be delivered to a hospital upon application from the hospital authorities. A "beer licence" is required for the sale of "drinkable liquids" which are classed as non-intoxicating, but is not needed for soda-water or other beverages containing no alcohol.

Marriage.—The law relating to marriage is consolidated in No. 76 It includes a provision for legitimation by subsequent marriage.

Shop Hours.—The Acts of 1911 and 1912 are consolidated in No. 33 with modifications.

Workmen's Compensation.—Amendments are made in the Act of 1914 by c. 34 and extended powers are given by No. 35 to a Royal Commission considering the whole subject.

Hospitals.—No. 38 regulates the conditions of admission into hospitals of patients either paying or unable to make payments. It enacts that:

> It shall be the legal duty of every person who may convey or escort any one to any public hospital for the purpose of being admitted into the said hospital as a patient, before leaving the said hospital premises, to notify the superintendent, or other person in charge of the hospital for the time being, of the presence of such intended patient in the hospital.

Any one offending against this section is liable to a fine of 25 dollars or imprisonment of not more than three months in default of payment.

Deputy Attorney-General.—C. 40 authorises the appointment of a deputy Attorney-General.

Official Reporters.—The longest act of the session appears to be c. 42, which re-enacts, with modifications, c. 117 of the Consolidated Statutes, 1903, dealing with the position of shorthand reporters in the Courts.

5. NOVA SCOTIA.

Acts passed 200—Public, 83; Local, 79; Private, 38.

Ship-building.—By No. 1 a Ship-building Commission is appointed to facilitate the development of the ship-building industry and the manufacturing industries incidental thereto. It is empowered to create a body corporate—

(*a*) To construct, purchase, lease, or otherwise acquire ships and shares in ships, to equip, maintain and operate any ships so acquired;

(*b*) To establish, equip, maintain and operate any manufacturing plant for the manufacturing of ships of iron, or steel, or wood, or any combination of metals of like character;

and to enter into contracts with companies, acquire them wholly or partially, promote them, or in any way assist bodies interested in ship-building. Its powers are very wide, and it is authorised to raise a loan of two million dollars to carry them out either by direct expenditure or by means of subsidies.

Protection of Children.—The whole law relating to juvenile delinquents and the protection of children is consolidated with amendments by No. 2. The Act follows the usual lines of similar legislation in other Provinces.

Highways.—Fifteen Acts are consolidated in No. 3, by which a Highway Board deals with all matters relating to the highways of the Province. There is a right of entry upon property to obtain material "if from the absence or obstinacy of the owner or possessor of the soil no agreement can be made with him," and the damage is to be assessed by three disinterested freeholders nominated by the nearest justice of the peace. When land is taken without agreement the Superintendent of Highways appoints an arbitrator, the owner another, and a Judge of the Supreme Court appoints a third. If the owner fails within ten days, then the justices of the peace are to appoint in his stead. Bridges form the subject of a separate Act—No. 4.

Succession Duty.—The acts relating to succession duty are consolidated with amendments in No. 5.

Fuel Yards.—No. 9 authorises municipalities to establish and maintain yards "for the storage and sale of fuel."

Coal Commission.—A Board of Investigation into the working of the coal industry is appointed by No. 10 to report upon the economic conditions of the industry, the relation of wages to the cost of living, and all the circumstances of the work, including preference to "persons being or not being members of labour or other organisations, British subjects or aliens."

Agriculture.—Nos. 11 and 12 are for the purpose of rendering financial

aid by the Government to the purchase of machinery for agricultural purposes.

Blueberries.—No. 13 imposes a penalty of twenty dollars on any person who takes blueberries from the bushes by any other means than by hand.

Women.—By No. 41 women are admitted to the legal profession as barristers and solicitors.

Distress for Rent.—By No. 43 the following articles are exempt from distress for rent:

(*a*) The necessary wearing apparel, beds, bedding and bedsteads of the debtor and his family;

(*b*) One stove and pipe therefor, one crane and its appendages, one pair andirons, one set of cooking utensils, one pair of tongs, six knives, six forks, six plates, six tea-cups, six saucers, one shovel, one table, six chairs, one milk-jug, one teapot, six spoons, one spinning-wheel, one weaving loom, one sewing-machine, if in ordinary domestic use, ten volumes of religious books, one water-bucket, one axe, one saw, and such fishing-nets as are in common use, the value of such nets not to exceed twenty dollars;

(*c*) All necessary fuel, meat, fish, flour and vegetables actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value the sum of forty dollars;

(*d*) One cow, two sheep, and one hog, and food therefor, for thirty days;

(*e*) Tools, and implements of, or chattels ordinarily used in, the debtor's occupation, to the value of thirty dollars.

Public Health.—No. 47, dealing with matters of public health, is as detailed in its provisions as the preceding. Its main object is to secure cleanliness in the care and use of utensils in shops and public places, and the disposal of bodies in which death has occurred from an infectious disease.

6. ONTARIO.

[*Contributed by the late* A. H. F. Lefroy, Esq., K.C.]

Acts passed—111.

Franchise.—By the Franchise Act (No. 5)

every man *and every woman* of the full age of twenty-one years, a subject of His Majesty by birth or naturalisation, and not disqualified under *The Ontario Election Act*, is entitled to be registered as a voter, if such person (*a*) has resided in Canada for the twelve months next preceding the date fixed for commencing to make up the list; and (*b*) was in good faith on the last mentioned day and for the three months next preceding the same, a resident of and domiciled in the electoral district in which the polling sub-division in which he or she so resides is situate.

Land Settlement.—The Returned Soldiers' and Sailors' Land Settlement Act (No. 13) which is to be read with and as a part of the Northern and North-Western Ontario Development Acts, and to be administered by the branch of the public service and the officers created under those Acts. The Lieutenant-Governor in Council is given power to set apart and appropriate any territory which he may deem suitable, and—

The lands set apart shall be reserved for location by persons who, since August 4, 1914, have enlisted for active military or naval service with the British forces out of Canada, against the King's enemies.

The Lieutenant-Governor in Council is authorised to make regulations respecting the settlement and location upon any area so set apart.

Local Government.—No. 14 is an Act to establish the Bureau of Municipal Affairs as a branch of the public service; and a Director, with engineers, inspectors, auditors, etc., for it are to be appointed by the Lieutenant-Governor in Council. The Bureau may require from municipal corporations or commissions such returns and statements as to it may seem proper. Its functions are set out in s. 11, of which the two most noticeable seem to be to—

(*a*) Issue from time to time and send to the clerk of every municipality bulletins dealing with the administration of each branch of municipal affairs in order to secure uniformity, efficiency and economy in such administration;

(*c*) Inquire into, consider and report upon the operation of laws in force in other provinces of the Dominion and in Great Britain and in any foreign country having for their object the more efficient government and administration of the affairs of municipal corporations, and make such recommendations and suggestions thereon as may be deemed advisable.

Niagara.—S. 5 of the Ontario Niagara Development Act, No. 21, enacts—

5—(1) *Notwithstanding anything contained in any contract* heretofore entered into between the Commission and any municipal corporation or corporations . . . fixing the maximum price of power to municipal corporations at Niagara Falls, every municipal corporation which has heretofore entered into . . . a contract for the supply of electrical or pneumatic power or energy by the Commission from the Niagara River, shall pay to the Commission a sum equal to the average cost per horse-power to the Commission of all the power supplied to the municipal corporations under contract with the Commission for the supply of power from Niagara Falls and the vicinity.

The Legislature thus deliberately overrides contracts entered into by what is virtually a branch of the Government itself.

Farm Loans.—No. 25 enacts, subject to regulations to be made by the Lieutenant-Governor in Council, that—

(1) The Treasurer (of Ontario) may loan money from time to time to the municipal corporation of any township upon the debentures of the township issued as hereinafter provided for the purpose of enabling the corporation of a township to advance money repayable by a special rate upon land held and used for farming purposes in the township.

and that—

Every loan made under this Act shall, upon the registration of the by-law against the lands in the proper registry or land titles office, constitute a first lien and charge upon the land described in the by-law for levying the special rate, but no loan shall be made to any applicant where the lands are mortgaged or otherwise encumbered without the consent in writing of the mortgagee or encumbrancer, whose mortgage or encumbrance is registered prior to the registration of such by-law.

Sales.—(No. 33) The Bulk Sales Act, 1917 is an important piece of legislation. It provides that—

It shall be the duty of every person who shall bargain for, buy or purchase any stock in bulk, for cash or on credit, before closing the purchase of the same and before paying the vendor any part of the purchase price (save as hereinafter provided), or giving any promissory note or notes or any security for the purchase price to demand and receive from such vendor, and it shall be the duty of each vendor of such goods to furnish a written statement verified by statutory declaration of the vendor, or his duly authorised agent, or if the vendor is a corporation, by the declaration of the president, vice-president, secretary-treasurer or manager of such corporation, which statement is to contain the names and addresses of all the creditors of the said vendor, together with the amounts of the indebtedness or liability due and payable by said vendor to each of said creditors, which said statement may be in the form set forth in Schedule "A" hereto: Provided, however, that it shall be competent for a purchaser of any stock to pay to the vendor a sum not exceeding $50 on account of the purchase price for the purpose of constituting a binding agreement for the purchase of such stock, before obtaining such statement as aforesaid.

In default of compliance with this "such sale shall be deemed to be fraudulent and shall be void as against the creditors of the vendor, unless all the creditors of the vendor are paid in full out of the proceeds of such sale" (s. 4).

By s. 5 either the purchaser is to obtain a written waiver from the creditors of the vendor, or the whole of the purchase money and securities therefor is to be handed to a trustee for distribution *pro rata* among the said creditors in like manner as moneys are distributed under the

Assignments and Preferences Act. In default of compliance the sale shall, in like manner, be void.

Companies.—An Act (No. 38) amends the Ontario Companies Act, by adding a new Part XI. A., regulating the incorporation and proceedings of corporations to be operated on a co-operative basis, and making the word "co-operative" as part of a trade name illegal if used by any person or corporation not co-operative according to the provisions of this Part. Amongst other provisions, the capital of such last-named corporations, not having share capital, may be in the form of a promissory note, called "capital note," of the members payable on demand; and "no transfer of shares of the company shall be valid unless and until authorised by the board of directors."

7. PRINCE EDWARD ISLAND.

Acts passed—30; Public, 13.

Fox Tax.—The Act of 1913 imposing a tax upon all foxes in captivity in the Province is re-enacted by with modifications by No. 3.

Land Settlement.—In order to make provision for returned soldiers, the Governor may secure by compulsory purchase vacant or uncultivated lands under authority of No. 4. An appeal lies to a County Court Judge against the amount of the valuation.

Liquor Licensing.—By No. 5 a Board of Commissioners consisting of six persons is appointed to enforce the laws relating to the prohibition of intoxicating liquors in which various amendments are made by No. 6.

8. QUEBEC.

[*Contributed by* E. Fabre Surveyer, Esq., K.C.]

Acts passed—136.

The Legislature of Quebec met twice in 1916, the first session beginning on January 11 and ending March 16.

Very few laws of general interest were enacted during the first session. The printing of an official edition of the Quebec Municipal Code was authorised by No. 4. An appeal was allowed by No. 10 to the Privy Council from opinions of the Court of King's Bench given under Articles 579 and following of the Revised Statutes of Quebec, 1909, on questions concerning the rights of Canada, or of the Province of Quebec, as to fisheries and fishing in tidal waters of the province, such opinions being for the purposes of such appeals, treated as final judgments between the parties. Companies are hereafter by No. 14 bound to make every year a return to the Provincial Treasurer showing every change of ownership during the previous year, consequent upon the sale, transfer or assignment of shares, bonds, debenture or debenture stock. Trust

Companies acting as transfer agents must make a similar return containing the details of each sale, transfer or registration of transfer. A penalty is imposed for each day's delay in making such returns, and the directors of the company, who knowingly allow such default, are also liable to penalties. Civil engineers, by No. 24, are exempted from serving as jurors.

The Pharmacy Act is substantially amended by No. 29. No curator shall henceforth be appointed to vacant successions, unless the application therefor has been served upon the Attorney-General of the Province, who may intervene to protect the interests of the Crown.

The other laws enacted are of purely local interest.

Acts passed—137.

The second session of the Legislature in 1916 lasted from November 7 to December 22.

Patriotic Fund.—No. 2 authorises the Provincial Treasurer to subscribe 1,000,000 dollars to the Canadian Patriotic Fund, for the purpose of assisting, in case of need, the wives, children and dependent relatives of officers and men, residents of Canada on active service during the war. The fund was raised by an issue of 5 per cent. debentures redeemable in fifteen years.

Procedure.—No. 12 does away with the formerly called *qui tam* actions by authorising any person of full age to sue in his own name, before the civil courts, for the recovery of penalties, if the statute exacting the penalty does not indicate by whom it may be recovered.

Taxation.—Commercial corporations as well as telephone companies will henceforth be taxed one-tenth of 1 per cent. upon the amount of their paid-up capital (No. 18).

The tax on transfers of stock is made to apply to an extra provincial company or corporation, which has a branch, an agency or an office in the province (No. 19).

Succession Duties.—No. 20 is devoted to the Succession Duties Act which was the object of important amendments in 1914 and 1915. It changes the scale of fees payable according to the value of the estate in the calculation of which property situate outside of the Province is taken into account.

The last section of the Act, which is a chapter in itself, allows the Provincial Treasurer to grant an allowance if part of the estate already pays duty in any part of the British Dominions other than the Province of Quebec.

Education.—No. 28 places all the Catholic schools of the various parishes of Montreal under the control of a single commission.

Judiciary.—No. 31 gives the Acting Chief Justice of the Superior Court a right of precedence immediately after the Chief Justice. By

the existing laws the Chief Justice of the Superior Court resides in either Montreal or Quebec. In either of these cities, where the Chief Justice does not reside, there is an acting Chief Justice, who presides over the puisne judges of his section, but the rank of the latter was not previously settled officially.

No. 32 distributes the forty-two judges of the Superior Court of the Province of Quebec in the twenty-three judicial districts of the Province.

Dental Surgery.—No. 38 enables the College of Dental Surgeons of the Province of Quebec to grant to students in dentistry on active service in Europe with His Majesty's troops privileges similar to those which may be granted in similar cases by the Bar of the Province.

Architects.—By No. 39, the Council of the Association of Architects is authorised to admit to membership in the Association members of similar associations in the other Provinces of Canada and members of the Royal Institute of British Architects. It also subjects to a penalty the illegal use of the word "architect."

Registration of Trust Deeds.—No. 44 provides for a special register for all trust deeds creating a hypothec or pledge of movables, as provided by 4 Geo. V. c. 51. s. 1, such Act to come into force by proclamation.

Insurance.—No. 46 amends the Quebec Insurance Act with regard to insurance agents, who are henceforth required to take a licence to act as such.

No. 47 amends the same Act by enacting provisions regarding funeral insurance companies, such insurance including all contracts providing that upon the death of the assured a funeral benefit will be paid or a funeral service furnished. These companies may be incorporated by letters patent, which may authorise them to carry on a general funeral undertaking business, and the manufacture of funeral undertaker's supplies. The authorised capital of such companies must be at least $150,000, and before applying for a licence they must furnish the Superintendent of Insurance satisfactory evidence that at least $50,000 have been subscribed *bona fide*, and $20,000 paid thereon. They must also deposit with the Provincial Treasurer, in cash or in approved security, a sum proportionate to their contingent liabilities.

Powers of Agent-General.—By c. 51 the Agent-General for the Province in the United Kingdom is empowered to receive the affidavits of execution of powers of attorney or of memorials required for the registration of real rights.

Workmen's Lien.—C. 52 amends the Civil Code with regard to the preferred claims of the workman, supplier of materials, builder and architect on the property to the completion of which they contributed.

1917.

No legislation was passed during the year 1917.

9. SASKATCHEWAN.

[*Contributed by* R. W. Shannon, Esq., K.C.]

First Session.

Acts passed—Public, 34; Private and Local, 15.

Soldiers' Representation.—Representation has been provided in the provincial legislature by No. 4 for the many citizens of the Province serving in the overseas expeditionary forces of Canada or in the Imperial forces in Great Britain, France or Belgium. All persons, of whatever age or sex, so serving, who for three months immediately preceding the date of joining or being attached, were residents in Saskatchewan, are entitled to vote. Provision is made for three additional members, one to be elected by the qualified voters who at the time of election are in Great Britain, and two by said voters in France and Belgium. Candidates must have six months military service in Great Britain, France or Belgium, to their credit.

Election.—The chief provisions of No. 5 include the preparation of lists of voters in the three principal cities and certain other electoral divisions, and the amendment of the qualification of voters generally. Polling day is to be a public holiday after 1 o'clock p.m. It is deemed to be illegal for a candidate to make or promise subscriptions to religious, charitable or philanthropic societies except for patriotic purposes. Facilities are provided for certain classes of employees and commercial travellers, who through absence are unable to record their votes, to do so at special polling places.

Treasury.—The Treasury Department Act (No. 6) has been revised and consolidated. The officials of the department now include the accountants of all other departments, thus bringing all departmental monetary transactions under one management. Provision has been made for a contingent account, which may be drawn upon in cases of urgency and the amount repaid from the appropriation borrowing.

Highways.—A new Act (No. 7) repealing No. 8 of 1916, abolishes the Board of High Commissioners and creates a new department. Several new sections deal with the question of drainage work for roads, and authorise the department to purchase from the Dominion Government swampy or submerged lands for constructing or improving highways, on certain terms as to reclamation and sale of the unrequired surplus.

Local Government Board.—A consolidation of the law and amendments has been affected by No. 8 and the jurisdiction of the board widened to include the revision of certain assessments and the hearing of assessment appeals, the administration of the Sale of Shares Act, and the extension of time for repaying municipal debentures. The conditions of appeal from the board to a judge of the Supreme Court are defined.

The Board is given power to compel the execution of its orders at the expense of a defaulting party.

Hospitals.—A revision and consolidation Act (No. 9), while containing new provisions, including power to expropriate lands for hospitals, the treatment of patients from municipalities outside the union upon a yearly contribution basis, and minor provisions *re* procedure, provides as heretofore for the co-operation of municipalities in the establishment of union hospitals.

Juvenile Courts.—Courts for the trial of the young are by No. 10 to be established in every city and town and where otherwise necessary by the Lieutenant-Governor in Council. The judges of the Supreme and District Courts who, however, may decline to sit, and the police magistrates in cities, are *ex-officio* judges. The Courts are declared to be within the meaning of the Juvenile Delinquents Act, 1918 (Dominion), with power to deal with delinquents under the School Attendance Act. Provision is also made for the establishment and absorption of institutions as detention homes.

Rural Municipalities.—The Rural Municipalities Act (No. 14) is a consolidation and revision now consisting of 341 sections. New provisions qualify a farmer's wife resident with him to vote, or to be a candidate, at municipal elections, while every reeve and councillor must now be a British subject, and the voter having a single ballot only must select his division for voting. New sections dealing with expropriation of land and arbitration proceedings are included.

Hail Insurance.—The administration of the Municipal Hail Insurance Act (No. 15), formerly in the hands of a Commission, now devolves upon nine directors elected by the delegates at a regular meeting, one delegate being appointed for each municipality electing to participate in the benefits of the Act. Notice of withdrawal must be given before June 1 in any year, and the withdrawal sanctioned by the directors. The directors are given power in certain specified cases to limit the total indemnity payable per quarter section, to arrange for an additional rate per acre on certain lands, and to permit owners of certain lands to withdraw from the operation of a by-law for a period of two years. The existing law has not been otherwise materially altered.

School Trustees.—Among the provisions of an amending Act (No. 18) are the granting of the franchise, as regards the election of school trustees, to resident wives of qualified electors, and a declaration of the eligibility of such women for election to that office.

School Attendance.—A new measure, the School Attendance Act (No. 19), for enforcing regular attendance at school, provides for the appointment by boards of trustees in town districts of attendance officers who are to report monthly to the department. In village and rural school districts an annual census is to be taken and submitted to the

department of all children between seven and fourteen years of age. Particulars of all irregular attendances are to be submitted monthly by teachers. Provision is made for the appointment of a chief and provincial attendance officers, and penalties are provided against parents, guardians, teachers and officers in case of default.

Prairie and Forest Fires.—Act No. 21, which is in part a revision of "The Prairie Fires Act," contains new provisions for the prevention of forest fires. These provisions are based on the recommendations of the Canadian Forestry Association. The appointment and co-operation of municipal fire guardians are dealt with in the new Act.

Liquor Licensing.—The Saskatchewan Temperance Act (No. 23) continues in force most of the provisions of the Sales of Liquor Act No. 39 of 1915, and the amendments enacted in 1916, except the sections regulating the liquor store system, which has been abolished. The Act contains many new provisions making important advances towards total prohibition. The only places where liquor can be purchased after May 1, 1917, are druggists' stores. Where none such exist it may be obtained from physicians. In either case it can only be got in limited quantities on presentation of a prescription. Liquor can be consumed after that date only in a dwelling-house, and canvassing, receiving or soliciting orders for liquor for beverage purposes is prohibited. Wholesale druggists are permitted by the Attorney-General, under bond and stringent regulations, to sell liquor for certain medicinal and scientific purposes. The administration and enforcement of the Act is placed in the hands of the Attorney-General.

Farm Loans.—The Saskatchewan Farm Loans Board, consisting of three members, is constituted by and for the administration of an Act bearing a like name (No. 25). The scheme of the Act generally is the granting of first mortgages on farm lands, not exceeding 50 per cent. of the valuation by the Board, for a term of thirty years at a rate of interest to be estimated and repayable in equal annual instalments of principal and interest; the proceeds to be applied on permanent improvements or for productive purposes, or, if specially authorised by the board, to purchase land for agricultural purposes. Provision is made for raising the working capital—not exceeding $5,000,000—upon the credit of the general revenues of the province in the same manner as other provincial loans. The money is to be advanced to the board as approved by the Lieutenant-Governor in Council, securities issued by the treasurer at no time exceeding the amount of mortgages issued by the board, and all such mortgages containing a provision for their assignment or hypothecation to the Treasury.

Co-operative Creameries.—In order to further the interests of the dairy industry, Act No. 26 provides for an amalgamation of co-operative creameries under one management, and for this purpose an incorporated

body, to be known as the Saskatchewan Co-operative Creameries, Limited, is created. The objects of the company are the constructing, equipping, maintaining and operating creameries, cheese factories and cold storage plants, taking over existing agreements between the co-operative creameries and the Government, and the buying and selling of dairy and poultry products and poultry.

Registered Nurses.—To furnish a certain standard of qualification for the members of the nursing profession, No. 28 creates an incorporated body, to be known as the Saskatchewan Registered Nurses' Association. The management of the Association will be carried on by a council of seven members, two of whom are to be appointed by the College of Physicians and Surgeons of the Province of Saskatchewan, and five are to be elected annually by the members in good standing.

Anti-Tuberculosis League.—Act No. 29 empowers the provincial treasurer to advance a sum of money up to $150,000 to the trustees of the Saskatchewan Anti-tuberculosis League, to enable the league to complete the construction of the sanatorium at Fort Qu'Appelle. The provincial treasurer may be authorised by the Lieutenant-Governor in Council to raise such sums by way of loan on the credit of the province.

Returned Soldiers' Employment.—No. 30 brings into existence a commission, composed of a number of representative citizens, whose duty will be to secure as far as possible suitable employment for returned soldiers discharged on account of wounds, illness or other sufficient cause. The objects are stated to be:

"(*a*) To make a careful and comprehensive industrial and commercial survey of the available sources of employment for returned soldiers within the province;

"(*b*) To arrange, through the medium of returned soldiers' welcome and aid leagues, federal and provincial labour bureaux, boards of trade and other public bodies and institutions, for the placing of returned soldiers in such positions as they are most capable of filling.

"(*c*) To solicit, receive and distribute funds coming into its hands for the purposes for which it has been formed."

The Commission will work in co-operation with kindred organisations.

Second Session.

Acts passed—Public, 71; Private and Local, 8.

Public Revenues.—In order that Saskatchewan may contribute towards the support of the various funds raised for patriotic and other relief purposes, and for the rehabilitation of soldiers into civil life and employment after the war, the Public Revenues Act (No. 3) has been enacted. This statute is designed to replace the Patriotic Revenues Act (No. 6) of 1916. It provides for the imposition of an annual tax for the

above purposes on all rateable property in the province. The special rates to be levied are:

(1) An amount equal to two mills in the dollar on the total value of all the rateable property in each municipality, and (2) in the case of local improvement districts (*a*) 1 per cent. per acre upon every owner and occupier of land and upon the land, and (*b*) one-fifth of one cent. per acre in respect of Crown Lands leased for grazing purposes.

Wild Lands.—Since 1913 the Rural Municipality Act has provided for the imposition of a municipal surtax in each municipality on uncultivated lands, or lands cultivated in small part only. These provisions have been repealed by No. 4, which provides, with certain exceptions, for the imposition and collection of a provincial tax of 1 per cent. of the assessed value of all lands owned in the Province whether within a municipality or local improvement district, in case the owner has less than a certain proportion of the total area under cultivation; the ascertainment of the required proportion depending on the extent of land held by each individual owner. The tax, though still collected by the municipalities, is now paid directly into the provincial treasury.

Timber Areas.—Instead of one and one-half per cent. as formerly, the tax payable by owners or operators of timber areas or berths is by No. 5 now fixed at 1 per cent. per acre, with a minimum of twenty-five dollars, and a rebate is provided in case of owners or operators who can show that any area is held under permit for cutting timber or cord-wood for settlers' use. Manufacturers of lumber from trees cut down on their timber areas may be granted a rebate of all sums in excess of $\frac{1}{2}$ of 1 per cent. per acre paid or payable during the year 1913 and in subsequent years.

Liquor Exporters.—A tax of $1,000 is by No. 6 imposed on all persons or firms engaged in the liquor exporting business in respect of each place of business maintained for the purpose in the province. Persons in business when the Act comes into force are to pay the tax on or before January 1, 1918, and on or before January 1 annually thereafter, while persons who subsequently commence business are to pay same on the first day of the month following the commencement, and on or before the same date in each subsequent year. Provision is made for recovery of the tax by distress in case of default or in the option of the treasurer by an ordinary action, and defaulters are liable on summary conviction to a penalty of twenty-five dollars per day during continuance of default.

Public Health.—By an amending Act (No. 8) provision is made that where work to be done for the abatement of a nuisance would cost upwards of $250, an appeal shall lie to the Commissioner of Public Health. Should the order of the commissioner be disregarded, the work may be carried out at the expense of the defaulter. A salutary provision is inserted in the Act, prohibiting the employment in the manu-

facture, preparation, storage or sale of food of persons affected with consumption or other communicable disease, or with venereal disease or any communicable skin affection, while important provisions are embodied regulating the attendance of school children suffering from infectious diseases and requiring the production of medical certificates.

Mines.—What was previously the Coal Mines Act has been consolidated and revised by No. 10, so as to include within the scope of its provisions all mines of whatever nature in the province. The Act has been remodelled and new clauses introduced dealing with check-weighers and the conditions under which they work, while an improvement has been affected as regards brevity and clarity of expression in the general rules which are contained in a schedule to the Act.

Children's Protection.—A revision and consolidation has been effected by No. 13. Every city having a population of 10,000 and upwards must now provide children's shelters, where previously this was optional in the case of cities and towns. Such cities must also provide and pay one or more probation officers, whose powers and duties for the enforcement of the Act are defined. The grounds for apprehension of a child without warrant have been widened, and other amendments varying in importance have been introduced.

Succession Duties.—The previous law on this subject has been repealed, and a new Act consisting of 36 sections introduced by No. 16 Among the chief amending provisions is that placing the duties payable under the Act on a scale similar to that now in force in Ontario.

Land Titles.—What is probably the most important Act on the Statute Book, to the legal profession and general public, has been thoroughly revised and consolidated in 217 sections by No. 18. An improvement has been effected in the arrangement and logical sequence of the various topics dealt with, and a number of points which have hitherto caused frequent litigation and considerable uncertainty have been dealt with in the light of judicial opinion and practical convenience.

Trust Companies.—The previous Act, consisting of nine sections, has been replaced by one eighty-two sections (No. 24) which itself illustrates how great was the need for a fuller and more comprehensive enactment. The Act follows the outline of the Dominion statute on the subject, and contains provision concerning the construction, management and powers of trust companies, while a model Bill is provided by Schedule A, the procedure still being by way of private Bill. The amount of capital stock of a trust company *bona fide* subscribed before commencing business must now be not less than $250,000, while at its credit in a chartered bank there must be a sum of not less than $100,000 paid on account of subscriptions in excess of all existing liabilities arising out of incorporation, organisation or otherwise.

Horse Breeders.—The inauguration of what in many respects is a

new system has been introduced by No. 37. Stallions in every part of the province must in future be enrolled, and no stallion over thirty months old brought into Saskatchewan may be sold without enrolment. Provision is made in the case of thoroughbreds for three classes of certificates, while the scale of fees no longer remains on the sliding principle, as the amounts in connection with the issue and renewal of certificates are fixed.

Vehicles.—No. 42 provides for the registration of all kinds of motor vehicles, the issue of licences, the display of numbered plates on licensed vehicles, and the lights to be carried at night. Rules of the road are prescribed, and various regulations adopted for the prevention of accidents.

Seed Grain.—The law has been consolidated and a few new provisions added by No. 47. It has been made possible in the case of sums required for seed grain not exceeding $2,000 to raise the amount under authority of a resolution of the council of a municipality instead of by reference to the ratepayers, as is necessary in case of amounts above that figure. An application for seed grain by a tenant or occupant must be approved in writing by the registered owner of the land.

Practitioners not using Drugs.—A new Act based on the recommendations made by a committee appointed by the senate of the University of Saskatchewan (No. 67) is designed to give recognition to practitioners of osteopathy, chiropractic and manipulative surgery. The Commissioner of Public Health is to keep a register of all such practitioners; their qualifications for admission to registration and practice are set forth, and restrictions and penalties for infringement of the Act are provided. The Osteopathy Act has been repealed.

Mothers' Pensions.—A new scheme has been inaugurated by No. 68 in the shape of providing relief to widows and their children who, through necessitous circumstances, are unable properly to provide for their support. Heretofore the various municipal Acts gave power to expend money for the relief of the deserving destitute, and to the above extent the Mothers' Pensions Act assumes that power, the Government reserving the right to recover any amount so expended from the municipality in which the mother has for a period of one year resided, the liability of the municipality not to exceed $3 per week per child.

Reclamation of Lands.—The fact that natural resources of the province, including the ownership and control of all sources of surface water supply and unalienated public land, are still vested in the Crown in the right of Canada, while control of the drainage of land is vested in the Crown in right of the Province, has been instrumental in bringing about the passage of No. 69, which embodies the terms of an agreement reached by conference with the Dominion authorities, providing a mutually satisfactory method of dealing with the drainage of Dominion

land in the province. The Act, which is administered by the department of highways for the province, is divided into three parts, dealing respectively with small drainage projects, Dominion lands lying within drainage districts, and drainage work carried out by the Dominion Government.

Town Planning.—Important new legislation of far-reaching effect has been introduced by the Town Planning and Rural Development Act, 1917 (No. 70), which provides for the appointment of a director of town planning and rural development, who is to be the chief executive officer responsible to the minister of municipal affairs for the administration of the Act. The statute is divided into five parts. In Part II. are to be found the various provisions respecting new streets and subdivisions, and the powers and duties of " local authorities." Part III. is confined to the preparation and approval of development by-laws and schemes, according to a list set out in schedule A to the Act. Part IV. deals with the acquisition of land, setting forth the provisions under which the same may be purchased or expropriated. In Part V. again provision is to be found for the procedure to be adopted in case of default by local authorities in the preparation and submission of by-laws and schemes. The powers of entry upon and inspection of property by local authorities are also among those dealt with in that part. The Act comes into force on July 1, 1918.

Statute Revision.—By No. 71 the Lieutenant-Governor in Council is authorised to appoint a commission of two or more persons for the revision and consolidation of the statutes. This work will probably occupy two years.

10. NEWFOUNDLAND.

Acts passed—41.

Daylight Saving.—Daylight saving is introduced by No. 9 and the time altered to Newfoundland time.

Pensions.—Pensions are placed by No. 13 under the control of a Board of three commissioners. If a pensioner is considered incapable of expending his pension providently for the benefit of his wife and children the commissioner may appoint a trustee to expend it for him.

Wills.—No. 16 provides for sailors and soldiers to dispose of their property in any way allowed by the law of England to men on active service.

Militia.—A Department of Militia is constituted by No. 17 to be responsible for home defence in Newfoundland.

Food Control.—A Food Control Board consisting of three persons is appointed by No. 18 to regulate all matters in connection with the necessaries of life which are defined to be " articles used by man for

food or drink, food for domestic animals, footwear, clothing, coal and other fuel, and kerosene oil.

Liquor Licensing.—A Liquor Control Board of three persons is appointed by No. 22 to enforce the provisions of the law relating to the sale of intoxicating liquors.

Foreign Judgments.—No. 23 provides for the imperial enforcement of judgments in Newfoundland and other parts of His Majesty's Dominions.

Fish.—No. 30 provides for the payment of a bonus on the export of fish other than codfish, halibut and herring, such as turbot, capelin and plaice.

Shipping.—The transfer or mortgage of British ships cannot be effected without the Governor's approval under No. 34.

SECOND SESSION.

Acts passed—2.

Business Profits Tax.—A tax is imposed on all trades and businesses, "including the business of transportation," but excepting life insurance, by No. 1. Disputes as to the assessment of net profits are determined by a Board of Arbitrators, consisting of two, appointed respectively by the responsible Minister, the taxpayer, and the third appointed by the other two.

Legislature.—The second Act amended the powers of the Legislative Council so that its consent is not necessary to a money bill as certified by the Speaker.

11. BERMUDA.

[*Contributed by the* HON. REGINALD GRAY, K.C., *Attorney-General.*]

Acts passed—36.

War Loan.—Act No. 9 authorised the issue of £10,000 of Bermuda Government £1 notes to the Military Treasury Chest Officer, the equivalent being invested in the British 5 per cent. War Loan towards the ultimate redemption of the note issue.

Public Health.—Act No. 12 is a comprehensive measure providing for the maintenance and operation of a new Sewerage System constructed by the Corporation of the City of Hamilton under legislative authority. The cost of maintenance and the annual appropriation to a sinking fund for the redemption of the loan raised to defray the cost of construction are to be met by (1) by a general rate on all real and personal property in the Sewerage District, and (2) by a special tax on all hotels and other premises which, for special reasons, derive a larger benefit from the system.

Daylight Saving.—A proposal made in 1916 to pass a Daylight

Saving Act as a measure of public utility was rejected almost unanimously by the House of Assembly. But in 1917, when the subject was again submitted to the Legislature on the ground of its importance in the interests of the Imperial Services in the Colony, Act No. 13 was passed by a very large majority, the period covered commencing early in April and ending on September 30.

War Registration.—Act No. 17 provides for the compiling of a Register of all male persons in the Colony between the ages of eighteen and sixty, exclusive of members of the Naval and Military Forces.

Liquor Control.—Act No. 21 prohibits during the present war the sale or supply of intoxicating liquor in all clubs and licensed premises between 9 p.m. and 9 a.m. More stringent restrictions were afterwards imposed by Martial Law Regulations made by the Governor without reference to the Legislature.

Stamp Duties.—For the first time in the history of the colony it has been found necessary to provide additional revenue by stamp duties, and Act No. 25 imposes a duty of 6*d*. on bills of lading of exported goods, 1*d*. on cheques, and 1*d*. on receipts of £1 or upwards. Other duties will be imposed on legal and commercial documents in the near future.

Government Notes.—Act No. 27 provides for the appropriation of about £6,000 representing the accumulations of certain special funds towards the ultimate redemption of the Government Note issues. This increases the appropriations for this purpose to £26,000 with accumulated interest, as against a total note issue of £30,000.

Finance.—Act. No 28 authorises the Governor in Council to provide for maintaining a sufficient balance in the treasury either by obtaining advances from the local banks or by the issue of additional Government Notes. Hitherto it has not been necessary to resort to either of these expedients.

Chief Justice's Salary.—In 1913 the Chief Justice's salary was fixed at £800, but there were also fees of office averaging approximately £80 a year. Act No. 30 increases the salary of £,1000, and requires all fees to be paid into the public treasury.

Steam Communication.—The necessity to maintain a regular service with New York, U.S.A., induced the Colony to accept from the Imperial Government the loan of an obsolete cruiser for this purpose. The estimated cost of the necessary alterations was £40,000, but the actual cost was nearly £55,000, which had to be raised on short loans, charged on the general revenues and assets of the colony and authorised by Act No. 31. It is hoped that the loans may be repaid by the sale of one of the Colonial dredgers which is no longer needed for public work.

III. AUSTRALASIA.

1. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* G. S. KNOWLES, ESQ.]

Acts passed—40.

With one exception, namely, the Commonwealth Railways Act, all the important measures passed during the year 1917 arose out of, or were directly connected with, the war.

Elections.—The Commonwealth Electoral (War-time) Act (No. 8) enables persons serving the Empire outside Australia, whether on land or sea, who are enrolled or eligible to be enrolled as electors, and persons who have returned from such service who are not enrolled but are eligible to be enrolled as electors, to vote at elections for the Senate and general elections for the House of Representatives. These electors are also allowed to vote for a party, and their votes are counted as votes for the candidates recognised by the leaders of the various political parties as representatives of their respective parties for the various States and electoral divisions.

Provision is also made for the disqualification from voting at elections of naturalised British subjects born in enemy countries. Exceptions are, however, made in the case of—

(*a*) Persons born in Alsace-Lorraine, Schleswig-Holstein, and certain other countries, who arrived in Australia before those territories became part of an enemy country;

(*b*) Members of the Forces serving outside Australia;

(*c*) Persons who have been members of the Forces or who have been rejected as medically unfit;

(*d*) The parent, wife, brother or sister of any of those mentioned in (*b*) and (*c*);

(*e*) Persons who have during the war been members of the Parliament of the Commonwealth or a State; and

(*f*) Syrian or Armenian Christians.

If a candidate dies before polling day the leader of the party which he represented may certify the name of a substitute candidate, and any votes polled for the deceased candidate are counted for the substitute candidate.

Unlawful Associations.—The Unlawful Associations Act (No. 14) makes additional provisions with regard to unlawful associations. Power is given to declare any association, except a trade union, to be an unlawful association. Membership of an unlawful association is prohibited, and, in the case of a person who is not a natural-born British subject born in Australia, renders the offender liable to deportation. Members of unlawful associations are also ineligible for membership of

the Commonwealth Public Service. Other offences created are contributions of money or goods to an unlawful association, and the printing, selling, etc., of publications by or in the interests of an unlawful association. The transmission through the post of any publication issued by or in the interests of an unlawful association is prohibited, and in the case of a newspaper it cannot be registered under the Post and Telegraph Act for transmission as a newspaper. The property of an unlawful association is liable to seizure and forfeiture, and there is power to enter the premises of the association and to seize any articles, documents, etc., found therein.

Wheat Storage.—The Wheat Storage Act (No. 15) provides for the creation of a Commission with power to erect silos in which to store the large quantities of wheat sold to the British Government which had not been shipped to England owing to shortage in freight. The Commission consists of a Commonwealth representative and a representative of each State in which silos are to be erected, and has power to determine the designs, numbers and cost of silos to be erected, and the cost per bushel for the storage of wheat, and to arrange for the erection of the silos under the supervision of proper authorities and for the erection of such other structures as are necessary.

To provide adequate funds for the scheme, the Commonwealth is empowered to advance to the States a total sum of £2,850,000.

Repatriation.—The Australian Soldiers' Repatriation Act (No. 37) repeals the Australian Soldiers' Repatriation Fund Act 1916, and provides other means for the repatriation of the Australian soldiers, sailors, nurses, etc., who have served outside Australia in the war. The general administration is placed in the hands of the Minister. A Commission of seven members, of which the Minister is *ex-officio* Chairman, is created with powers of recommendation as to regulations providing for the granting of assistance and benefits under the Act, and of advising as to the general administration of the Act. Provision is also made for the appointment of a Board in each State and for Local Committees in districts in a State, the Board or Committees having power to deal with matters in the State or district as the case may be.

The details of the scheme are left to the regulations which may provide for the granting of assistance and benefits—

(*a*) To soldiers, sailors, etc., upon their discharge from service;

(*b*) To the children, under the age of eighteen years, of deceased or incapacitated soldiers, sailors, etc.; and

(*c*) Where by reason of special circumstances the Commission considers that assistance and benefits should be granted, to widows of deceased soldiers, sailors, etc.

Daylight Saving.—The Daylight Saving Repeal Act (No. 35) repeals the Daylight Saving Act, 1916.

Customs.—The Customs Tariff Validation Act (No. 6) and the Excise Tariff Validation Act (No. 7) validated the collection of duties of customs and excise, respectively, under the Tariff proposals introduced into the House of Representatives during the 1914–17 session of Parliament.

Bounties.—The Wood Pulp and Rock Phosphate Bounties Act (No. 28) amends the Wood Pulp and Rock Phosphate Bounties Act, 1912, by extending for five years, from January 1, 1918, the period during which bounty is payable on the production of rock phosphate in Australia.

The Shale Oil Bounty Act (No. 29) makes provision for the payment of bounty in respect of the production in Australia of crude shale oil from mined kerosene shale. The total amount appropriated is £270,000, and is payable over a period of four years commencing on September 1, 1917.

The bounty is payable at the following rates:

On each gallon up to 3,500,000 gallons . . .	2¼*d.*
On each gallon exceeding 3,500,000 and not exceeding 5,000,000 gallons	2*d.*
On each gallon exceeding 5,000,000 and not exceeding 8,000,000 gallons	1¾*d.*
On each additional gallon	1½*d.*

The total amount payable in any one year is £67,500, but if that amount is not paid in any year it may be paid in any subsequent year in addition to the maximum amount for that year.

The usual provisions are made for proof of quality, conditions of employment, returns, etc.

Financial.—The outstanding financial measure of the year is the War-time Profits Tax Assessment Act (No. 33 of 1917) which provides for the levy and payment of tax on war-time profits arising after June 30, 1915. The war-time profits arising in a financial year are calculated by ascertaining the total profit in those parts of accounting periods falling in the financial years and deducting therefrom the pre-war standard of profits.

(*a*) The period for which accounts of a business have been made up for the purposes of the Income Tax Assessment Act 1905–1916; or

(*b*) Such period, not being less than six months or more than a year, as the Commissioner determines.

The provisions for the determination of the pre-war standard of profits are based on those contained in the Imperial Finance (No. 2) Act, 1915. The following modifications of the British provisions are, however, made:

(*a*) The profits standard is not to be reduced below five hundred pounds;

(*b*) Where there are only two pre-war trade years the greater of the profits of those years is the standard, or if there was a loss in one year the profit of the other year is the standard;

(*c*) In case of abnormal depression in the last pre-war trade years the average of two of the three preceding trade years may be taken instead of the average of four of the last six pre-war trade years as in Great Britain; and

(*d*) The statutory percentage is 10 per cent.

The Act applies to all businesses deriving profits from sources within Australia, but the following exceptions are made:

(*a*) Businesses carried on by local governing bodies; by friendly societies not for pecuniary profit; by religious, charitable or educational institutions and life assurance businesses; (*b*) Agricultural, fruit-growing, dairying, and co-operative food-producing companies; (*c*) Offices or employments; (*d*) Professions the profits of which depend on personal qualifications; (*e*) Gold-mining businesses; and (*f*) Businesses commenced since August 4, 1914—

(i) Deriving profits from the manufacture of waste products of materials used for munitions of war; or

(ii) For the purposes of mining for wolfram, molybdenite and other tungstic ores.

Any person who is on active service with any of the Allied Powers in the field of operations where his life is in danger is exempt from the provisions of the Act.

Power is given to modify the provisions of the Act, in all the cases mentioned in the Imperial Act, and in addition in cases where liabilities are incurred in the business at the instance of the Commonwealth Government in pursuance of the war-time policy of the Government, or where there has not been one pre-war year if the business only commenced to be remunerative since August 4, 1914.

Provision is made for the decrease or increase of the profits of the accounting period according as the capital of the business is increased or decreased.

The provisions for the increase of the statutory percentage or for the alteration of the pre-war standard of profits, for the assessment of the tax, for the computation of profits (but with modifications) as to capital, and as to the Board of Referees in the Imperial Act, are followed generally in the Commonwealth Act.

In addition to the deductions allowed by the Imperial Act deductions are allowed—

(*a*) For losses by fire, flood, accident, robbery or embezzlement; (*b*) For alterations to plant, machinery and premises; (*c*) For bad debts written off in the accounting period; (*d*) For Commonwealth and State Land and Income Taxes and rates and other taxes; (*e*) In respect of

wasting assets; (*f*) In the case of a business using leasehold property; (*g*) Of profits set aside for a profit-sharing scheme between employer and employee; (*h*) In the case of a pastoral business of moneys used to extinguish losses caused by drought, etc.; (*i*) In the case of other businesses, of money used to extinguish losses where the businesses have shown losses up to the end of the preceding accounting period; and (*j*) In certain cases, of the interest on borrowed money.

Where a business whose pre-war standard of profits does not exceed £1,000 is owned by an individual, a deduction of £300 or more may be allowed if the owner devotes the whole of his time to the business. If it is owned by a partnership a similar sum may be deducted in respect of each partner who devotes the whole of his time to the business.

The Act contains the usual provisions as to returns and assessments, objections and appeals, offences, etc.

The War-time Profits Tax Act (No. 34) imposes war-time profits tax at the following rates:

(*a*) For the financial year ending June 30, 1916—50 per cent.

(*b*) For each succeeding financial year—75 per cent.

The Income Tax Act (No. 39) imposes income tax for the year 1917. The principal features of this measure are the two new subjects of taxation created, namely, male persons who are unmarried or widowers without children and over the age of twenty-one years, and cash prizes in lotteries. The additional tax payable by the former is £5 or 5 per cent. of his taxable income, whichever is the greater.

Exceptions are made in the case of persons who have been on active service outside Australia during the present war, or have enlisted for such service, or a majority of whose brothers have been on such service or have so enlisted.

Persons permanently incapacitated for work whose income does not exceed £150, and old-age pensioners or persons over sixty years of age with a gross income less than £100 are also exempt from this additional taxation.

The tax payable on cash prizes in lotteries is 10 per cent. of the gross prize money.

By the amending Invalid and Old-age Pensions Act (No. 22) receipt of a war pension or military allotment does not debar a person from receiving an old-age pension. Similarly, a person who is maintained by his children is no longer debarred from receiving an invalid pension.

The Freight Arrangements Act (No. 20) amends the Freight Arrangements Act 1915, by extending that Act to include freight other than Australian produce.

Naturalisation.—The Naturalisation Act (No. 25) makes some very important changes in the Naturalisation law of the Commonwealth. In

addition to the evidence required by the 1903 Act, an applicant is now required to produce two additional certificates of character from natural-born British subjects who are householders, and to show that he is able to read and write English. Power is given, also, for any person to make representations to the Minister with regard to any application. Under the 1903 Act a person who had obtained in the United Kingdom a certificate of naturalisation or letters of naturalisation was not required to take an oath or affirmation of allegiance. By the amending Act every applicant is not only required to take the oath or affirmation of allegiance, but also to renounce his allegiance to the country of which he was formerly a subject.

The 1903 Act provided that an infant not being a natural-born British subject whose father or whose mother (being a widow or divorcee) had obtained a certificate of naturalisation or whose mother was married to a natural-born British subject or to a person who had obtained a certificate of naturalisation and who had resided at any time in Australia with such father or mother, should be deemed to be naturalised. That provision did not extend to persons other than infants, or to infants whose father or mother, as the case might be, had been naturalised under the law of a State. The 1917 Act accordingly conferred a similar status on these persons, but provided that, until a day to be fixed by proclamation, persons who are enemy subjects should be excepted.

In addition to the power of revocation conferred by the 1903 Act the Governor-General now has power to revoke a certificate of naturalisation if he is satisfied it is desirable for any reason that it should be revoked. He also has power, when revoking a certificate, to declare the wife and any minor children aliens. If he does not so declare, the wife may, within six months after the date of the order of revocation, make a declaration of alienage, and thereupon she and any minor children become aliens.

Public Service.—The Commonwealth Public Service Act (No. 18), which amends the Commonwealth Public Service Act, 1902–16, facilitates the appointment, to the public service, of those who have served abroad in the various naval and military forces of Australia during the war. Prior to the passing of the 1917 Act, first appointments to the clerical division could be made to the first sub-division of the Fifth (or lowest) Class only. By the amending Act returned soldiers, etc., who have passed the examination for admission to the clerical division, may be admitted to any class or sub-division of a class of that division. Special examinations may now be prescribed for those who have served abroad, and the fact that such persons have passed examinations held by recognised Universities or other institutions qualifies them for admission to the service. The maximum age for appointment in these cases is raised also from twenty-one to fifty. The restriction on

the period of temporary employment is also removed in the case of persons who have served abroad during the war.

Defence.—The Defence Act (No. 36) makes many amendments to the Defence Act, 1903–15. A distinction is now made between active service and war service. Active service now has the same meaning as in the Army Act. War service has a much wider meaning than active service, and includes all naval or military service in time of war. A large number of the other amendments are consequential on the adoption of these two terms. It is made an offence for a person to falsely represent himself to be a returned soldier or sailor; and the sale or disposal of medals and decorations, except in certain cases, is prohibited. Civilians who accompany troops on active service within the Commonwealth or its territories are now regarded as members of the forces for the purposes of the Defence Act. An important section is added to the Act to prevent employers penalising employees who enlist for active service. Such enlistment does not terminate a contract of employment, but the contract is suspended during the absence of the employee on duty. The same provision applies to employees called up for duty with citizen forces of the Commonwealth.

Another important provision is that requiring employers to pay senior cadets employed by them when the senior cadets are required to train during their hours of employment. This provision does not apply in the case of the Citizen Forces.

Railways.—The Commonwealth Railways Act (No. 31) provides for the appointment of a Commonwealth Railways Commissioner in whom is vested the control of all Commonwealth Railways. All existing Commonwealth railways, rolling stock, stations, land acquired for railway purposes and other railway property are vested in the commissioner. He has power to acquire lands and to let on lease existing railway lands; to enter into contracts in connection with the railways; to appoint such staffs as he requires; to construct, maintain and repair railways; and make by-laws in connection with the working and administration of the railways.

The Act applies to the Railways Service the provisions of the Arbitration (Public Service) Act, 1911, and the Commonwealth Workmen's Compensation Act, 1912, and the rights of persons previously employed in the Commonwealth or State Public Services are protected as to existing and accruing rights.

New railways are only to be constructed in pursuance of an Act of Parliament initiated in the House of Representatives.

The limit of damages for personal injury sustained on the railways where death or permanent disablement results is £2,000, and, where temporary disablement results, is £1,000.

2. NEW SOUTH WALES.

[*Contributed by* J. V. MACKEN, ESQ.]

Acts passed—27.

The small output of legislation during 1917 was due partly to the general influence of the war, but perhaps more to the coalition of Liberals and prominent Labour leaders to form the National Party, and to the interruption of legislative activities during the two months of the big strike.

Coal Mines.—The Coal Mines Regulation (Amendment) Act (No. 3) was passed to meet a serious difficulty revealed by the strike, but is intended to be a permanent measure. Under the existing law, coal and shale getting was restricted, so far as employment in the face of the workings of a mine was concerned, to persons with two years' previous experience or to persons working in company with them.[1] Accordingly, when the miners were unwilling to work, it was impossible to replace them by volunteers without the prescribed experience, and so a provision designed for the safety of employees conferred a monopoly which could be used as a strike weapon. Under the amendment the Rule is to operate "except by consent of the Minister," so that the Government of the day is invested with a discretion to relax the Rule in the face of a national emergency.

Finance.—The Finance Taxation (Amendment) Act (No. 4) re-imposed the super-tax of threepence in the pound on all incomes received during 1917, and increased the taxes on racing clubs and associations and the stamp duty on betting-tickets.

Unclaimed Moneys.—The Unclaimed Moneys Act (No. 11) is modelled, though with some important differences, on similar Acts in Victoria, South Australia, Western Australia, Canada, New Zealand, Cape Colony, Transvaal and the Orange River Colony. It provides that every company registered and incorporated in New South Wales and carrying on business for the acquisition of gain shall keep a register of all unclaimed money in its hands. "Company" includes banks, life assurance companies, liquidators of any company, and every person or firm carrying on business as traders and acting as agents, trade assigners or private bankers for individuals or companies. The register is to set forth all moneys in the hands of the company that have not been claimed during the six preceding years. It is to be open to inspection at the head office of the business, and a copy is to be forwarded to the Colonial Treasurer for gazettal. Unclaimed moneys which have not been paid to the owner within one year after the first publication of the notice in the *Gazette* are to be paid to the Colonial Treasurer, and the company

[1] Coal Mines Regulation Act, 1912, s. 54, Rule 40.

is thereupon relieved from liability. The owner, however, may recover it from the Colonial Treasurer on proving his ownership. The Act differs from the South Australian and Western Australian Acts in giving the owner the right to recover from the Colonial Treasurer, even though the amount has been paid to another claimant.

Defamation.—The Defamation (Amendment) Act (No. 14) repealed s. 31 of the Defamation Act, 1912. The repealed section was a drastic enactment, which was apparently peculiar to New South Wales and belonged to its early days. It was, in effect, an attempt to regulate printing by an indirect and illogical expedient. Under the section, if any type, press or printing material was used in printing a defamatory article, all the types, presses and printing materials of the owner might be taken in execution by the successful plaintiff or prosecutor in a civil or criminal proceeding against the printer or publisher of the article. The owner might have nothing whatever to do with the printing—as, for for example, where printing machinery was used under a hire-purchase agreement—and yet his machinery was liable, apparently on a principle somewhat analogous to that of the deodand. The old law practically made it impossible for the country newspaper proprietor to buy expensive linotype machines on terms, as any security given by him would not avail against execution in an action for libel. The unfairness, too, of the section had been recently illustrated in the seizure of the presses of a firm of contract printers who printed an article in Chinese characters for a Chinese newspaper without being aware of the meaning of those characters.

Life Insurance.—The Life, Fire and Marine Insurance (Amendment) Act (No. 23) gave further protection to policies of life insurance as against the claims of creditors. Under the decisions upon the principal Act a testator, by the use of such expressions as "after the payment of my just debts, funeral and testamentary expenses, I give, etc.," might inadvertently deprive his life policies of the protection which in certain circumstances they would otherwise enjoy. In the future, by s. 2 of the amending Act, the protection is not lost unless the testator specially declares in his will that the policy moneys (or bonuses) are to be assets for the payment of his debts. A further provision deals with policies taken out by an uncertificated bankrupt. In *Palmer* v. *The Public Trustee*[1] it was held that such policies belonged to the official assignee. Under the amending Act these are now to be the property of the bankrupt, or persons claiming under or through him, and are to be exempt from the claims of his creditors up to an amount varying with the length of time during which the policy has been in force. In the case of persons who die, or have died, before or after the Act, while engaged on "war service" or within two years afterwards from illness or injury arising

[1] 21 C.L.R. 645.

from such service, special protection is accorded to the extent of £2,000, whatever may be the time for which the policy has been in force. "War service" has a wide meaning, and includes (*inter alia*) service abroad during the war in Red Cross work or munition making.

Land Settlement for Fighting Men.—The Voluntary Workers (Soldiers' Holdings) Act, No. 25, makes provision for homes for disabled members of the naval and military forces and the dependents of those killed. In the various suburbs of Sydney voluntary workers have been clearing land and erecting buildings on land for soldiers and their dependents. In some cases the land has been purchased with funds provided by the Voluntary Workers' Cafés. This Act was passed in order to increase the scope of these Associations. The Governor may issue Crown grants to the Public Trustee, who may, at the request of the Voluntary Workers' Association, acquire, hold or subdivide, alienate and mortgage lands for the purpose of providing homes for members of the forces and their dependents. The Public Trustee may borrow money on the land held by him and on the security of any buildings, improvements and materials thereon for the purpose of making advances to voluntary workers' associations for the purchase of materials for constructing buildings, etc., on such land. On the completion of the building or improvements the Public Trustee is to convey the land and buildings to the members of the forces or dependents named by the Association on such terms and conditions as the Public Trustee thinks desirable, and is to take a mortgage over the land and buildings to secure the repayment of the amount spent on materials. The house and land, whilst in the possession of a member of the forces, or a dependent to whom the same may have been or hereafter may have been given or transferred, are to be exempt from all laws relating to bankruptcy or insolvency, and are not to be alienated or charged without the consent of the Public Trustee.

Trustees' Relief.—The execution of Trusts (War Facilities) Act (No. 26) enables any trustee engaged on war service, or prevented by any reason connected with the war from returning to New South Wales, to delegate the execution of any trust of which he is trustee by power of attorney attested by one or more witnesses. The usual conditions as to revocation apply. However, a trustee is presumed to be alive until definite news of his death is received, and the fact that he is reported "missing" or "missing and believed to be killed" is not to be construed as notice of his death, although, in fact, it has occurred. S. 8 preserves certain rights of persons whilst on active service. Any right of entry or distress, and any right to commence any action, suit or other proceeding possessed by any person on active service at the time he enters such service, or which accrues to him during such service, is not to be barred by the expiration during such service, or within twelve months thereafter, of the period of limitation fixed by any Act with respect to any such right.

Crown Lands.—The Crown Lands (Amendment) Act (No. 27) gives to every applicant for Crown lands that are hereafter to be set apart the right to take them up under freehold or leasehold tenure. The Act further gives to all holders of Crown lands, no matter what their tenure is, the right to convert that tenure into freehold. The Act also reduces the residential qualifications in connection with the various Crown tenures to a period of five years. Under some of the earlier Crown Lands Acts conditions of perpetual and forty years' residence were often inserted to prevent the accumulation of large areas of Crown lands by one man with the aid of "dummy" selectors. Even in the later Acts, ten and fifteen years' residence was a common condition. It is now recognised that the progressive land taxes and the home maintenance principle afford ample guarantees against the aggregation of large estates.

3. SOUTH AUSTRALIA.

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Acts passed—53.

During the parliamentary session of 1917 fifty-three Bills were passed. Of these three were formal Appropriation and Supply Bills, and twelve were Bills for purely administrative purposes, the majority of merely local interest and calling for no special comment. In pursuance of the purpose of gradual consolidation of the statute law pursued in South Australia since 1914, four additional Consolidating Bills were passed—two (Lottery and Gaming, No. 1285, and Licensing, No. 1322), being consolidations pure and simple, two (Juries, No. 1290, and Fisheries, No. 1293) both amending and consolidating measures. It may be mentioned that, under a Joint Standing Order of the South Australian Parliament, consolidating Bills are not submitted to debate as other Bills are, but are referred to a Joint Committee of both Houses, whose sole task is to inquire whether or not the Bill submitted to them is a correct consolidation of the existing statute law which it purports to consolidate. Two of the Acts passed in 1917, namely, the Taxation Act Amendment (New Rates) Act (No. 1317), and the Licensing Act Further Amendment Act (No. 1279), have since been repealed, the one by the Act No. 1337 of 1918, the other by the consolidating Licensing Act already referred to, in which its provisions are incorporated.

In the public works programme there were authorised to be constructed one waterworks (Act No. 1314), and two railways (Acts No. 1292 and No. 1307), and one railway deviation (No. 1297). The Act No. 1307 is worthy of notice, in view of the general importance of the break of gauge question in Australia, in that it authorises the conversion

of a system of railways known as "The North-Western" from the narrow gauge, 3 ft. 6 in., to the broad gauge, 5 ft. 3 in.

Enemy Property.—The Enemy Property Act Amendment (No. 1273) authorises the making of an arrangement between the Governors of the State, and of the Commonwealth, transferring to a Public Trustee appointed under the War Precautions (Enemy Property) Regulations of the Commonwealth all money and other property held by the Public Trustee of this State under the Enemy Property Act, 1915. The Act referred to was almost entirely superseded by these regulations, and the object of the amending Act was to enable enemy property already in the hands of the South Australian Public Trustee to be lawfully handed over.

Friendly Societies.—The Friendly Societies Further Amendment Act (No. 1276), besides making certain minor amendments of a machinery character in the law relating to friendly societies, authorises such societies to invest their surplus moneys in any Commonwealth Government security. The special object of this provision was to authorise the investment of the funds of friendly societies in Commonwealth War Loans, and any such investments made by friendly societies prior to the passing of the Act are validated in general terms by the Act.

Place Names.—In 1916 a Committee was appointed in pursuance of a resolution of Parliament to make recommendations in the matter of "altering the names of all towns and districts in South Australia which indicate a foreign enemy origin." The Committee duly presented their Report, and the Nomenclature Act (No. 1284) was passed to enable their recommendations to be given effect to. A statement is to be compiled from the report, showing the present names of those places the names of which the Committee recommends should be altered, and the new names to be respectively substituted therefor. The new names may be those recommended by the Committee, or such as the Governor thinks proper. This statement is to be published in the Government *Gazette*, and after such publication the new names are to be used for all purposes as the names of such places.

A number of special provisions follow, all directed to the general object of giving effect to and perpetuating the alterations so made. To this end the Governor may give directions for the publication of notices and the erection of sign-boards, and may make any proclamation or Order in Council deemed necessary. As to certain public documents, such as the maps and plans in the Land Office and the Survey Office, or the plans and certificates of title in the Lands Titles Registration Office, the Surveyor-General and Registrar-General of Deeds are respectively authorised to make the necessary alterations, and are given certain necessary incidental powers. It is forbidden to use the old name for

any purpose in any document under the Real Property Act, 1886, or in any document filed in or issued out of any Court of Law.

A general power is conferred upon the Governor to alter at any time, by proclamation, any place-name that he deems to be of enemy origin, and, pursuant to addresses of both Houses of Parliament, the name of any other place. All present powers of altering place-names are preserved.

Wheat.—The purpose of Wheat Harvest (1915–16) Act Further Amendment Act (No. 1291) is to continue for a further period of one year, and thus to make applicable to the 1917-18 wheat harvest the Wheat Harvest Scheme which came into operation in South Australia at the outbreak of war. Under this all wheat grown in the State since the 1914–15 harvest is acquired, " pooled " and handled by the Government on behalf of the growers.

Patriotic Funds.—The War Funds Regulation Act of 1916 made provision for official supervision and control over the collection and expenditure of moneys raised for patriotic purposes in connection with the war. The amendment Act (No. 1299) enlarges the powers of supervision and control so as to cover not only the collection of money by voluntary contributions, but also the holding or organising of any entertainment in aid of any patriotic purpose or war fund, and the publication of advertisements and notices in connection with any proposed entertainment of such a nature.

Mental Treatment.—The Mental Treatment (War) Act (No. 1306) deals with the problem of the treatment and cure of returned soldiers rendered temporarily mentally deficient by reason of wounds, shell shock, disease, exhaustion and similar causes as the result of military service in the present war.

It relieves soldiers so suffering, whose affliction is likely to prove merely temporary, from the necessity of incurring the stigma ordinarily attaching to admission and treatment in a mental hospital, by providing for reception into a special home on the request of the principal military medical officer for the State. Here they may be detained for any period not exceeding six months, but such period may be extended from time to time. They will be discharged upon an order by the Inspector-General of Hospitals. " Home " is defined as " any institution, home, house, private or public hospital, or part thereof approved by the Inspector-General of Hospitals and set aside exclusively for the reception of " returned soldiers.

Land Settlement.—The Discharged Soldiers' Settlement Act (No. 1313) is largely a consolidation of the two measures of 1915 and 1916 dealing with the same subject matter. The scheme of the Act is to enable the Government to set apart areas suitable for settlement by discharged soldiers, and to make advances to assist them in working the

land. Very large sums have already been spent by the Government of South Australia on repatriation work of this character.

The definition of "discharged soldier" in the new Act is enlarged so as to include men who have served in the war with any naval or military force raised in any part of the British Empire, and includes the widow of any such person dying as a result of active service and leaving children who were wholly or in part dependent on the deceased soldier or sailor.

Under the Act the Governor, by proclamation, sets apart certain areas of Crown lands for allotment to returned men. In addition, the Minister of Repatriation may, for the same purpose, acquire land by repurchase. The Minister has power before allotment to clear or otherwise prepare the land for settlement and may employ discharged soldiers for this purpose. It will then be offered to discharged soldiers on perpetual lease or agreement to purchase, or on lease for a term of years, as the Minister thinks convenient. The Minister may make advances to successful applicants for the purpose of clearing and fencing and for the erection of buildings, the purchase of stock and implements, and similar purposes. Advances will be secured by a first mortgage or bill of sale, according to the nature of the advance. Advances may also be made for the same purposes to discharged soldiers who are holders of Crown lands, or owners of freehold or of leasehold with not less than three years to run, or who are share-farming under an agreement, having not less than three years to run. Originally such discharged soldiers were excluded, the only persons entitled to advances being discharged soldiers who had been allotted land under the Discharged Soldiers Settlement Act.

The Minister is given power to remit the rent or postpone the due date for payment of rent or purchase money. No lease or agreement under the Act is to be transferred, sublet, or mortgaged without the consent of the Minister.

Repatriation Advances.—The Advances for Homes Further Amendment Act (No. 1316) is part of the Repatriation Scheme upon which South Australia is at present engaged.

The main objects of the Act are two in number:

1. To extend and improve the principle of the Act passed in 1916 to enable returned soldiers, and the widows and parents of deceased soldiers, to obtain homes for themselves.

The Trustees of the State Bank may make advances for this purpose to any of the persons mentioned, whose annual income is not more than £300. Such advances must not exceed £600 (since altered to £700 by Act No. 1341 of 1918), and bear interest at 4½ per cent., repayable by equal monthly instalments of principal and interest at 8*s*. 5*d*. per £100. This sum is sufficient to repay the advance in fifty years. No ready

money is required as a qualification for applying for an advance, but the board is protected against loss by a provision that it need not execute a transfer for ten years, unless the board's claims have been liquidated before that date.

2. To make specially generous provision for the widows and widowed mothers of soldiers who have died on active service. The Act enables them to obtain a permanent home in any portion of the State they may select at a rental of not more than 6*s*. a week.

The board, upon request, will purchase the land and build a home, or else will purchase the land with a house already built, and will then let the same to the widow. The total price, including all expenses, must not exceed, for land alone £100, for house and land £600 (since, by Act No. 1341, 1918, altered to £700).

The person at whose request the house is built or purchased will enter into a tenancy agreement with the board for tenancy of the premises so long as she remains a widow. Upon death or remarriage the tenancy *ipso facto* determines. The house may then be relet, but, if the tenant is the widow or widowed mother of a deceased soldier, the rent is not to exceed 6*s*. a week.

Repairs and renovations may be effected, the cost being repaid by the tenant—in the case of widows and widowed mothers, by instalments not exceeding 1*s*. per week, in other cases of 2*s*. a week.

After the expiration of fifty years, or earlier if necessary, the board may sell the homes.

Apprentices.—Technical Education of Apprentices Act (No. 1294) makes provision for the compulsory technical education of apprentices during the term of their apprenticeship. The object is to enable apprentices to learn the theoretical side of their trade, and also to obtain practical experience in every branch of the trade. It applies only to such trades and within such districts as are proclaimed by the Minister, and then only to apprentices apprenticed after the Act was passed, or under eighteen years of age at the date when the Act is proclaimed to apply to them. The Minister prescribes the technical schools and classes at which apprentices are to attend, fixing, subject to the following restrictions, the length of time and the minimum number of occasions for attendance.

1. The occasions are not to be more than one half-day a week during the day-time, and one evening a week, and the time is not to exceed six hours a week.

2. The apprentice is not to be bound to attend for more than three years, unless within that time he has failed to reach the prescribed standard.

Apprentices are bound to attend, and their employers are bound to permit time to attend. Upon conviction of an apprentice for a second

or subsequent failure to attend, his employer may apply to the Industrial Court to cancel the indentures of apprenticeship.

An apprentice in a proclaimed trade but employed outside a proclaimed district may demand of his employer the right to attend the technical schools and classes, and the employer is then bound to permit him to do so. But in this case the occasions fixed by the Minister for his attendance, to the extent that they occur during ordinary working hours, must not exceed one half-day a week, and the time, including the time going to and returning from class, must not exceed the time, during ordinary working hours, fixed for apprentices employed within the proclaimed district. Every apprentice must serve three months on probation before commencing his apprenticeship, his compulsory attendance at a technical school commencing immediately, and the three years' course at a technical school must be undertaken during the first three years of the apprenticeship. Instruction is free, all fees being paid by the Minister. Provision is made for the institution of rewards and scholarships for the encouragement of apprentices in their studies, and for the annual examination of apprentices by the appropriate Trade Committee appointed under the Act.

There are a number of supplementary administrative provisions:

1. A board is constituted, called the "Apprentices Advisory Board." The board is representative of the Government, employers and employees, and its functions are to make recommendations to the Minister upon the training, education and instruction of apprentices, generally and in particular, and as to the best means of carrying the Act into effect.

2. The Superintendent of Technical Education is chairman of the board, and has power of inspection of technical schools and classes.

3. A Trade Committee for any proclaimed trade may be appointed. Its functions are to conduct the annual examination of apprentices in its particular trade, and to obtain and furnish to the board any information required by it.

Amusements Tax.—The Stamp Act Further Amendment Act (No. 1277) provides for the indefinite continuation of the amusements tax imposed as a war measure of taxation by the Stamp Act Further Amendment Act, 1916.

Motor Tax.—Motor Vehicles Tax Act Amendment (No. 1301) enlarges the scope of the Motor Vehicles Tax. It takes away the exemption from taxation previously enjoyed by vehicles driven by steam or electricity, and restricts the concession of taxation at one-half the ordinary rate conferred by the 1917 Act in favour of motor vehicles plying for hire to motor vehicles used exclusively for passenger hire.

The Act exempts motor vehicles owned by persons on active service from taxation for the period whilst they are on active service outside

the State. This exemption is retrospective, dating back to January 1, 1917, and remissions of the tax already made by the Treasurer before that date in favour of persons on active service are validated.

Succession Duties.—Succession Duties Act Further Amendment Act (No. 1308) provides that estate duty payable under the law of the Commonwealth of Australia or any other country is not to be deducted in calculating the net present value of property for the purpose of calculating succession duty. It allows the deduction of estate duty paid in respect of property situate outside the State.

The operation of the Act is retrospective, dating from December 20, 1914, the date when the Federal Estate Duty Act came into operation. The main object of the Act was to declare legislatively the principle enunciated by the High Court of Australia in *Registrar of Probates* v. *Rymill*.[1]

Taxation.—Taxation Act Amendment Act (Miscellaneous Provisions) (No. 1310) makes various minor alterations of a machinery character necessary or desirable in the working of the Taxation Acts. The more important are:

1. The Act alters the period for the calculation of income for the purpose of income-tax from the calendar year to the usual financial year July 1 to the succeeding June 30. This agrees with the year of income under the Commonwealth Income Tax Acts. The date for the payment of the tax remains the same, *i.e.* on or before May 14 in the succeeding year. There is provision for dealing with cases of hardship due to the change.

2. In the case of goods manufactured or treated within the State, but sold outside, the Act provides that, if such goods are of local material, the actual profit is deemed to be income made within the State; if of imported material, the income is deemed to be 5 per cent. of the cost of manufacture.

3. The Act exempts from income-tax income derived by a person outside the State upon the sale within the State of wool or live-stock.

Agricultural Development.—The object of the Loans to Producers Act (No. 1312) is to encourage rural production and more effective land settlement. It authorises the Minister to make loans to any co-operative Society for—

(*a*) The erection of cool stores; (*b*) the erection of factories for jam-making and for canning, drying or otherwise preserving fruit or vegetables; (*c*) the erection of fruit-packing sheds; (*d*) the erection or purchase of butter, cheese or bacon factories; (*e*) the purchase of fruit-grading machinery; (*f*) the erection of silos; (*g*) any other purpose prescribed by regulation made under the Act.

He may also make loans to any landowner, but only for the purposes mentioned above in (*e*), (*f*) and (*g*).

[1] 23 C.L.R. p. 163.

Loans may be made by instalments, and the Minister has the right, at any time, if he is of opinion that any loan is being misapplied or not carefully and economically expended, to refuse payment of further instalments and to call in immediately all money already lent. Loans are to be secured by mortgage, the interest being fixed by the Treasurer from time to time. The mode of repayment is determined by the Minister.

Fibre Royalty.—The Fibre and Sponges Act Amendment Act (No. 1278) fixes a flat rate of 5 per cent. on net profits per annum as the royalty to be paid by licencees under the Fibre and Sponges Act, 1909, instead of, as provided by that Act, a rate gradually increasing according to net profits. It further provides that no royalty at all is to be payable for three years from the date of the passing of the amending Act.

Irrigation.—The Irrigation and Reclaimed Lands Act Further Amendment Act (No. 1309) enables the Minister to fix from time to time the rate of interest payable on Government advances to settlers on irrigation areas. Previously the Act itself fixed the rate at 4 per cent. and there was no power to vary this rate.

In case of the neglect and consequent deterioration in value of any irrigation block, the Minister is authorised to himself assume control. This power is intended to meet the case of blockholders who have enlisted and are away from the State on active service.

The Act empowers the Minister to construct drains to cope with seepage[1] conditions and for general improvement, the cost to be borne by the owners of the lands benefited. When this has been done the owners must take effective measures to drain their private lands.

Crown Lands.—Crown Lands Act Amendment Act (No. 1311) removes the exceptions to the class of lands adjacent to the river Murray, which may be compulsorily acquired for purposes of closer settlement. The effect is to make all large estates and other lands so situate liable to be compulsorily acquired for such purposes. The Commissioner of Crown Lands is empowered, on the application of the holder of a perpetual lease of Crown lands, or of an agreement to purchase Crown lands, to effect improvements on this holding in the nature of grubbing and clearing, for the purpose of clearing for cultivation an area not exceeding 250 acres, and also improvements in the nature of permanent water improvements. The cost of such improvements is to be repaid by the applicant in thirty equal yearly instalments.

Railways.—Under various Acts of Parliament, railways have been constructed on what is known as the "Guarantee" principle, *i.e.* the residents of the districts, benefited by the railway, undertake, by an

[1] A word in use in Scotland and the United States as a noun meaning according to the *New English Dictionary*: "Percolation or oozing of water or fluid; leakage; also that which oozes."—ED.

affirmative vote at a poll taken in the railway district before the railway is constructed, to make up any deficit on the working of the railway by means of a "railway rate" levied on land within the railway district. Railways Guarantee Abolition Act (No. 1288) repeals the legislation embodying that principle and substitutes in lieu thereof "local rates,"[1] *i.e.* the Railways Commissioner is authorised to charge special local fares and rates on the said railways, these being calculated as though the railway were an altogether separate line, no reduction being made on account of distance travelled on any other line. If after three years the line has paid for itself and is likely to continue to do so, "local rates" cease to be charged.

Publication of Evidence.—By the Evidence Publication Act (No. 1287) any Court of Law is given power to prohibit the publication of evidence or the names of parties and witnesses in legal proceedings before it in cases where publication of the evidence is likely to offend against public decency, or it is desirable to prohibit the publication of the name of any party or witness in the interests of the administration of justice. To the same end the Court may make an order for clearing the court during the giving of such evidence. Any Court making such an order forbidding publication must report the fact to the Attorney-General, setting out the evidence or name forbidden to be published, and the circumstances under which the order was made.

There is a further power given to the Courts to prohibit temporarily the publication of evidence, where witnesses have been ordered out of court, where such a course is desirable in the interests of justice.

Non-compliance with any order made under the Act as to leaving the court is punishable as for contempt of Court; as to publication, by a penalty not exceeding £100 or imprisonment not exceeding six months.

The powers contained in the Act have already been availed of in a number of cases involving sexual offences.

Criminal Law Amendment.—The Criminal Law Amendment Act (No. 1303) deals solely with the punishment for sexual offences, increasing the punishments that may be awarded, and providing for indeterminate sentences in certain cases. Sexual offences appear to be on the increase in South Australia.

The punishment for indecent assault is raised from imprisonment not exceeding two years in every case to five years, for a first offence, and to seven years for a subsequent offence. For the first offence, a whipping may be ordered, and must be for a subsequent offence.

The punishment for indecent exposure of the person is raised from

[1] The "local rates" principle has now itself been abolished by No. 1328, 1918, s. 4—thus putting guaranteed railways on the same footings as the other lines in the State.

one year to two years' imprisonment for a first offence, and from two years to four years for a subsequent offence.

Power is given for a jury, on an information for rape, carnal knowledge and certain other like offences to find the accused guilty of indecent assault or common assault.

The punishment for a number of sexual offences is raised from imprisonment not exceeding two to three years, with or without hard labour, to seven years with hard labour.

The Act makes provision for the medical examination of any person guilty of a sexual offence, who is suspected to be suffering from a venereal disease. If two medical men report that this is so, the judge is, as a part of the accused's sentence, to declare that he is suffering from a venereal disease. The result of this declaration is that, at the expiration of his sentence, the prisoner is detained in confinement until the Governor is satisfied, by the report of two medical practitioners, that he is free from disease, and orders his release. There is a similar provision for cases where there is reason to suspect that the mental condition of the accused is such that he is unable to exercise proper control over his sexual instincts.

Liquor Licensing.—Licensing Acts Further Amendment Act (No. 1279) makes various amendments to the Licensing Acts under which the sale and supply of intoxicating liquor is regulated.

The principal amendments made by the Act are the following:

1. The Act revives the system of fixing the licence fee for a publican's licence on the assessed annual value of the licensed premises as fixed under local government legislation.

2. A licencee is forbidden to sell non-intoxicating liquor during "prohibited hours" unless he holds a special permit. This provision was intended to prevent the sale of temperance drinks after 6 p.m. being made a cloak for the sale of intoxicating liquor in licensed premises. The licencee may, however, supply such temperance drink to a *bona fide* lodger or to any person taking a meal on the licensed premises.

This Act has since been repealed, its provisions being incorporated in the consolidating Licensing Act (No, 1322) passed later in the same year.

Compulsory Land Purchase.—The Lands Clauses Consolidation Further Amendment Act (No. 1298) deals solely with the question of costs in inquiries to determine the purchase price and amount of compensation payable for land compulsorily acquired for purposes of public undertakings. At present, if the amount awarded is greater than the amount tendered by the promoter of the undertaking, the promoter pays the whole costs of the inquiry; if equal or less, one half. This Act places the question of costs in the discretion of the person or persons presiding at the inquiry, with provision for taxation of the costs awarded and appeal against an award of costs.

Royal Commissions.—The purpose of the Royal Commissions Act (No. 1272) is to regulate the proceedings of Royal Commissions appointed by the Governor to inquire into public matters and to facilitate the making of their inquiries. There were many defects in the old Act under which such Royal Commissions formerly conducted their inquiries (The Witnesses on Commissions Oaths Act (1873)). This Act repeals that Act, and enacts more comprehensive legislation on the lines of recent Acts of the Commonwealth Parliament and of the other Australian States in its stead.

A Royal Commission now has unfettered power and discretion in the making of its inquiries and the hearing of evidence. It may publish evidence; is not bound by rules of procedure or of evidence, and may inform its mind as it thinks proper; may sit *in camera*, enter upon and inspect lands, buildings, etc., may require the attendance of witnesses and the production of papers and documents, and examine witnesses on oath, declaration or affirmation. Its acts and proceedings are not liable to be reviewed or restrained by any Court.

The power of punishment for offences committed by witnesses summoned before a Royal Commission is now vested in the chairman thereof instead of, as formerly, in a Court of summary jurisdiction, and the maximum penalty is raised to £200. The chairman has also a power to imprison for any term not exceeding two months. Failure to attend upon summons, and, after tender of expenses, refusal to answer any lawful question or to comply with the Commission's directions, and insult, defamation, misbehaviour or interruption of the Commission's proceedings, all now constitute offences punishable under warrant signed by the chairman of the Commission. Each repetition of the act is deemed a separate offence.

If a person who has been duly summoned, and tendered his expenses, fails to attend, he may be forcibly brought before the Commission to give evidence.

A witness cannot, however, be compelled to disclose any secret process of manufacture, and he has the right to be represented by counsel, unless the Commission otherwise directs. False evidence is punishable as perjury, and no disclosure made by a witness is admissible in evidence against him.

Interference with, or victimisation of witnesses before a Commission is guarded against by a number of provisions constituting acts of this character indictable offences.

Dentists.—The objects of Dentists Act Further Amendment (No. 1302) are twofold:

1. It makes provision for the registration as dentists of certain operative dental assistants, concerning whose status there has been considerable controversy in the past. The Act provides that persons

who have been *bona fide* employed as operative dental assistants for at least three years before the passing of the Act are to be entitled to registration upon passing an examination and complying with certain other formalities as to notice and application for registration. The application for registration must be approved by a special board called the Dental Assistants Board, representative of the Government, the registered dentists and the dental assistants. The Act limits the number of operative dental assistants to be employed at a time to two.

2. The Act considerably tightens up the law relating to dentists so as to make the practice of dentistry by unregistered persons more difficult. It makes it unlawful for any person other than a legally qualified medical practitioner or registered dentist to practise dentistry for fee or reward. No person is entitled to sue for the recovery of any fees for dental attendance unless at the time of attendance he was registered. There is one exception: a person may extract teeth for reward, if he has obtained the approval of the Minister and complies with any conditions prescribed by him.

The use by any person on any name-plate, or in any advertisement or paper of the words "dentist," "dental," etc., or of any device, implying that he is qualified or willing to practise dentistry, is forbidden, unless the person concerned is registered, whilst the use of the letters "R.D.S." after one's name or the improper use of any title, words, or letters, falsely claiming any recognised degree or diploma, is absolutely forbidden.

No appointment as a dentist in any public or private institution is to be held by any person unless he is a medical practitioner or a registered dentist.

The Act places the onus of proof of registration in all proceedings for offences on the defendant.

Land Purchase.—The object of the Control of Subdivision of Land (No. 1304) is to place in the hands of the Surveyor-General a more effective power of control over plans for the subdivision of land which are deposited with him for approval pursuant to statute. Previously, approval had to be given almost as a matter of course. Under this Act he need not approve unless he is satisfied that there is not sufficient reason for refusing.

The following grounds are specifically set out as sufficient:

(*a*) If any proposed street or road shown on the plan is less than 40 ft. in width; (*b*) if any strip of land, of less than 10 ft. in width, bounding any land, has not been vested in the local District Council or Municipal Corporation, or certain other steps taken with reference to its ultimately being taken over by the Council or Corporation; (*c*) if a street or road is not shown on each side of an intersecting line of railway, or, in the case of a railway bounding the land subdivided, on the

side adjacent to such land; (*d*) if the site or orientation of any building to be erected on such land is for any reason unsatisfactory.

Vaccination.—The Compulsory Vaccination Exemption Act (No. 1319) abolishes the obligation on every parent to have his children vaccinated within six months after birth.

It provides, in lieu of this safeguard against smallpox, that the Governor may, upon the outbreak of smallpox anywhere within the Commonwealth, by proclamation, suspend this exemption so far as regards children born after the passing of the Act, either in respect of the whole State or any particular part thereof. In similar circumstances the Governor may, by proclamation, require all contacts to be vaccinated or revaccinated within any specified time.

If a case of smallpox occurs within the State, the vaccination officer may, by notice delivered to the persons, require all contacts to be vaccinated. This is intended to meet the case where there is no need to have recourse to the more elaborate procedure of proclamation, such as a case occurring on board ship.

Firearms.—The object of the Use of Firearms Restriction Act (No. 1321) is to prohibit the use of firearms by young and inexperienced persons. It fixes the age limit at fifteen years, and provides that no child under that age shall use, discharge, carry, buy, keep or knowingly have in his possession, any firearm, and forbids any person to sell, give, lend or in any way supply any firearm to a child under fifteen years of age. The Act authorises the seizure, either by the police or other persons appointed for that purpose by the Minister, of firearms unlawfully used. Firearms so seized are to be held until an order is made by a stipendiary magistrate or two Justices of the Peace as to their disposal. In any proceedings under the Act the Court may, upon its own view and judgment, decide the age of the child.

The following persons are exempted from the operation of the Act: (*a*) Members of the Commonwealth Military and Naval Forces, whilst engaged on duty; (*b*) persons using a shooting-gallery; (*c*) any gunsmith or seller of firearms, and their employees, whilst engaged on business; (*d*) any farmer, grazier, orchardist, agriculturalist or horticulturist, or any person residing with, or employed in his business by, such farmer, grazier, orchardist, agriculturalist or horticulturist.

Fisheries.—The Fisheries Act (No. 1293) consolidates two classes of Acts dealing respectively with fisheries and oyster fisheries, making the amendments necessary for amalgamating the administration of these Acts, and for making amendments which experience had shown to be desirable. The more important alterations in the pre-existing law are as follows:

1. The Act applies to the amateur fisher as well as to the professional fisherman. Previously the law did not do so.

2. It applies to private waters as well as to waters the property of the Crown. This, too, is new.

3. The provision for payment on the heads of turtles, tortoises and cormorants is repealed. It is now admitted that the old idea that these creatures were very destructive of fish is incorrect.

4. One licence serves for the two purposes of fishing and oyster fishing.

5. A person taking fish for bait used not to be subject to the Act. He now is, but is still allowed to take underweight fish provided he does not do so within closed waters or with an unlawful device.

6. A new evidentiary provision is introduced, making evidence of the fact that on a particular day there were fish in a boat *prima facie* evidence that the fish had been caught on that day.

Jury.—The Jurors Act (No. 1290) is a consolidating and amending Act. The outstanding alterations of the present law are as follows:

1. The Act substitutes two for the present three classes of jurors—"common" and "special" jurors. It makes the property qualification for common jurors ownership of land of the yearly value of not less than £20; previously it was not less than £10 in the one case, nor £30 in the other. The property qualification for special jurors remains the same, but the qualification is extended by the inclusion of certain ranks or callings, such as Justices of the Peace, bank director, station manager and engineer.

2. The age limit for both classes of jurors is raised from sixty years to sixty-five years.

3. Jurors, in Supreme and Circuit Court cases, are in future to be summoned by ballot instead of in the rotation that their names appear in the Jury Book.

4. In a criminal case, after the jury has been in deliberation for not less than four hours and is still unable to agree, the judge may discharge it. A unanimous verdict is still necessary.

In a civil case, if the jury, after three hours' deliberation are unable to agree, a verdict of three-fourths of a jury of twelve or of five-sixths of a jury of six is sufficient; and if, after four hours, such a majority cannot arrive at agreement, the jury may be discharged. Under the repealed Acts a jury was kept in deliberation until the judge was satisfied that they would not arrive at a verdict.

5. A right of peremptory challenge is given to each party, to a number equal to one half the proposed jury. The challenge is to be made in open Court as the juror comes to take his seat in the jury box and before he takes it. Under Acts hereby repealed, the right of challenge was against the whole panel, and then to the extent of six jurors, irrespective of the size of the proposed jury.

6. The fee payable in respect of a jury of six summoned in a civil

action in the Supreme Court is reduced from £5 to £2 10*s*., and in the case of non-payment of prescribed fees the action is to proceed as if no application for a jury had been made. Under previous Acts the action would not have been proceeded with at all. Jury fees are also made payable in cases under the Matrimonial Causes Act.

7. The rate of compensation to jurors both civil and criminal is increased, and fixed at 10*s*. per day and mileage.

8. Juries *de medietate linguæ* and *de ventre inspiciendo* are abolished. For the latter the Act substitutes an inquiry by three medical practitioners.

4. VICTORIA.

[*Contributed by* His Honour Judge Zichy-Woinarski, *and* W. Harrison Moore, Esq.]

Acts passed—40.

Assembly Nominations.—No. 2927 (War Service) dispenses in the case of persons abroad on naval or military service with the requirement that the nomination paper of every candidate for the Legislative Assembly shall be signed by the candidate, and provides for other means of establishing the consent of the person to be nominated.

Voting by Post.—No. 2901 (War Service) enables persons who are engaged on naval or military service during the war outside Victoria, but within the Commonwealth, to vote by post at any election for the State Parliament.

Local Government.—No. 2896 exempts councillors engaged on war service from signing the declaration required of councillors on their election, and from the vacation of their seats by absence. It also enables the nomination paper of a candidate to be signed by proxy.

Discharged Soldiers Settlement Act.—No. 2916 is made applicable only to soldiers who enlisted for service outside the Commonwealth in the present war, and served outside the Commonwealth and who have returned to or reside in Victoria and received their discharge, and to soldiers (British) who have elected to come to Victoria and been discharged. The Act deals with the two main divisions of such discharged soldiers: those, the smaller number, who want land but do not want any special privileges, but are prepared to take it under ordinary conditions under the existing Closer Settlement Act, or existing Land Act, and for them s. 5 says that the Governor in Council may set apart exclusively any area of Crown land; and those, the main body of discharged soldiers, who want land and financial assistance, and for them, in the first place, s. 6 makes provision for setting apart any area of Crown land. An advance, not to exceed in any case £500 as a total, may be made to a discharged soldier, and where the whole or

part of an advance has been repaid a further advance is authorised up to a total of £500. The advance may be by progress payments as the work for which it is made progresses, and it is to be repaid with interest at prescribed times, and to be meantime a charge on the land, and may be further secured, if the board (administering the Act) thinks fit by lien or stock mortgages (s. 11).

A discharged soldier who desires to apply for land makes his preliminary application to a "qualification" committee (one member of whom at least shall be a discharged soldier) for a certificate as to whether he is suitable as a settler, or may prove after training to be suitable (s. 8).

The board, in considering applications by discharged soldiers for land, is to consider the advisability of assistances in respect of:

(*a*) The clearing, fencing, supplying with water, draining, grading, preparing for irrigation and general improvement of the land applied for;

(*b*) The erection of buildings on it; and

(*c*) The purchase of implements, live-stock (including pigs and poultry), seed, plants, trees, and such other things as may be necessary for the successful occupation and cultivation of it, and may then make the necessary advance (ss. 9–10).

The rate of interest charged on an advance is not to exceed 3½ per cent. for the first year, and to advance by ½ per cent. each year until the ruling rate of interest is reached (s. 14).

The board is empowered to clear, drain, grade, sow, plant and fence and erect buildings on and otherwise to improve any land for the settlement of discharged soldiers:

(*a*) Prior to disposing of it in allotments; or

(*b*) At any time after the land has been disposed of under conditional purchase lease, but not after the end of the third year from the commencement of the term of the conditional purchase lease thereof; or

(*c*) At any time prior to the land being resold after forfeiture to the Crown, and the amount of the cost under (*a*) and (*c*) may be added to the value of the allotment or treated as an advance, and under (*b*) it is charged to the lessee in one sum, or in not more than forty equal half-yearly payments.

The board is empowered to withhold payment of instalments of any advance on complaint by its inspector that the money is being spent carelessly or extravagantly, or that live-stock, materials or implements are being neglected (s. 19).

The board is empowered, too, to purchase private land for the purposes of the Act, and the land so acquired thereupon becomes Crown land for the purposes of the Act (s. 23). If the value of any of the private land to be so purchased exceeds £10,000, the board is to be advised by the report of their referees as to its suitability before purchase (s. 25).

The raising of moneys for the carrying out of this Act is to be by increase of Government stock to an amount not exceeding £2,250,000, or by debentures (s. 26).

The Council of every municipality is constituted within the municipal district an advisory committee to the board, with the following powers and duties:

(*a*) To advise the board generally on matters relating to the selection and purchase of land within the municipal district, and (having due regard to the special needs and merits of discharged soldiers concerned) in respect of specific cases referred to it by the board;

(*b*) To advise and assist discharged soldiers settled on the land; and, when it thinks fit, to make recommendations to the board for advances to such settlers for materials, implements and live-stock;

(*c*) To organise and stimulate in the municipal districts, methods and schemes to assist and encourage discharged soldiers settled on the land in the making of their farms; and

(*d*) To report to the board periodically, and at intervals of not more than three months, as to the conditions of the settlement of discharged soldiers within the district (s. 35).

The board is empowered, too, to make advances of not more than £250 to any discharged soldier who is share farming on private land (s. 36).

The benefits of the Act extend to certain prescribed dependents of deceased soldiers.

Public Service.—No. 2925 relaxes in the case of discharged soldiers certain requirements of the Public Service Acts concerning admission to the service, and rank and pay. The passing of any examination conducted by a "University or other public examining body" in any part of the British Dominions, if accepted by the Public Service Candidate Board as substantially equivalent to the service examination for a particular position, is to be deemed the passing of the examination prescribed under the Acts for that position. A discharged soldier may be admitted to the "general division" (*i.e.* the division for miscellaneous duties, below the "clerical division") without examination; and, if he enters the clerical division, he may begin at a salary of £156 a year, *i.e.* in substance, he is given six years' seniority.

The Act also exempts discharged soldiers entering the service from the necessity imposed by the Acts on public officers to insure their lives. As insurance is the only provision made by the Acts in connection with the superannuation of public servants, the exemption offered to discharged soldiers may ultimately be of doubtful benefit to them.

Wheat-marketing.—The arrangements made for acquiring the whole Australian wheat-crop for disposal in Great Britain, made first under the Act of 1915, have been described in the Review of Legislation for that

year. No. 2917 continues the system and makes it applicable to wheat harvested during the season 1917–18 and the surplus 1916–17 wheat.

Wheat Storage.—By the Wheat Storage Act, 1917 (No. 2895), passed by the Commonwealth Parliament, provision was made for the establishment of a Wheat Storage Commission consisting of one representative of the Commonwealth, and one for each State in which silos were to be erected under the Act; and, for the purpose of facilitating the construction of silos, the Commonwealth Government was empowered to advance £2,850,000 to the States.

The Commission was to determine the designs, sites, number and cost of silos to be erected, and the charge for storage therein, and to arrange with State Governments for the construction of silos by or under the supervision of proper State authorities. Following upon this Act, and in order to co-operate under it, the Victorian Parliament passed the Act, No. 2895, under which the construction and maintenance of silos in Victoria is entrusted to the Victorian Railways Commissioners; while the actual control and management of the silos and of the business of storing wheat therein is subject to the powers of the Wheat Storage Commissioners under the Commonwealth Act, vested in the "Victorian Wheat Commissioners," a non-statutory body which has acted on behalf of the Government and the farming industry in carrying out the scheme for marketing Australian wheat, contained in the Wheat Marketing Acts. The limit of expenditure under the Act is £850,000.

It is provided that all contracts for the execution of works under the Act, or for furnishing material, shall contain a condition that "the recognised standard rate of wages for the work for a maximum number of hours shall be paid by the contractor to his employés engaged in the carrying out of such contract." As to the purchase of materials, there is a provision in favour of Australian products or manufactures similar to that contained in the Public Contracts Act, 1917 (No. 2920).

Governor's Deputy's Powers.—No. 2898 passed in 1916, and reserved for the royal assent, was duly assented to in 1917. In 1913 letters-patent were received from the Crown enabling the Governor, in case of his temporary absence from the State, to appoint a deputy. Doubts arose as to the extent of the powers which might be exercised by such deputy, particularly whether he could lawfully exercise the statutory powers of the Governor. The present Act declares that the deputy may exercise all the powers and authorities of the Governor under any statutory or other law or usage of the State.

Public Contracts.—No. 2920 is an Act in pursuance of a policy which has been adopted in various other instances, of requiring that the materials used by public authorities shall have been manufactured in the Commonwealth. Accordingly, in the case of a number of public authorities here set out, it is provided that all goods, machinery or

materials purchased to the amount of £250 or upwards at any one time by such authority, or by any contractor for works undertaken on behalf of the authority, shall be manufactured or produced in the Commonwealth, unless a Minister certifies that it would in the special circumstances be unreasonable to comply with this requirement. The Act is sanctioned by a penalty of £50, recoverable from every member of the authority consenting to the breach, and from every approving contractor.

Law Institute Act, 1917.—The preamble to No. 2903 sets forth the object of this Act. "The Law Institute of Victoria" had for years hitherto existed as a voluntary unincorporated society to afford opportunities for the continuous acquirement and diffusion of legal knowledge, to preserve and maintain the integrity of the legal profession, to discuss proposed changes in the law and aid reforms therein, and to suppress illegal and dishonourable practices, and it became expedient to incorporate it. The Act is modelled upon the South Australian measure (No. 1220) and that of the United Kingdom 51 & 52 Vict. c. 65.

A council with full management over its affairs is constituted and is represented by:

(*a*) The Attorney-General; (*b*) The president and vice-president of the institute for the time being; (*c*) The president and the body of persons known as the Bendigo Law Association; (*d*) The president of the body of persons known as the Ballarat District Law Association; (*e*) The president of the body of persons known as the Geelong Law Association; and (*f*) Sixteen other members elected by the members of the institute (s. 7).

A statutory committee of six persons appointed by the Chief Justice is created to be chosen from the legal profession at large, whether they are members of the Institute or not, and this committee is given disciplinary power over offending practitioners.

Conveyancing.—No. 2924 makes two amendments in the principal Act of 1915. Lessees of licensed premises are to have the advantage of s. 24 of the Municipal Act, notwithstanding any provision in the lease to the contrary, and no fine is to be payable by such lessees to the landlord for licence or consent to assign and underlet (s. 2).

In sales of land by auction no contract of sale is to contain a clause or condition stipulating for the payment by the purchaser to the vendor and to his solicitor of any costs other than such as may be incurred by the owner or by reason of default on the part of the purchaser in respect of the observance or performance of any of the terms or conditions of the contract and other than such as are provided for as payable by the purchaser in the conditions of sale contained in the Sixth Schedule to the Real Property Act, 1915 (s. 3).

Custody of Infants.—By s. 68 of the Marriage Act, 1915, the next

friend of an infant may apply to the Supreme Court alleging cruelty, ill-treatment or gross abuse of parental authority by father, mother or guardian; and the Court, upon such application, may order the release of the infant from custody and control of the father, etc., appoint some suitable person as guardian of person and estate, and require the father, etc., to contribute to the support of the infant.

No. 2928 provides that these powers shall be extended to the case in which, upon an application by a near friend, the Court is satisfied that from adultery, habitual intemperance or other misconduct, the father, mother or guardian has become disentitled to have the custody or control of the infant.

Children's Court.—No. 2914 introduces a number of changes in the principal Act enacted in 1906, and included in the consolidation of 1915.

It is now provided that where a child has been released from custody under the Act and has failed to observe the conditions of his release, he may be brought before the Court, and the case may then be dealt with *de novo* (s. 9). Where a child has been placed under the supervision of a probation officer, and such officer reports that the parent or other person with whom the child is living has failed to comply with any condition imposed by the Court for the child's welfare and health, the Court may remove the child from the care of such person and further deal with the child according to law (s. 10). The Evidence Act, 1915, is amended by a provision whereby a person who has been charged with any offence before a Children's Court may not, if called as a witness in any proceeding in any Court after three years from the time of his appearance in a Children's Court, be asked questions concerning such appearance, unless the same are relevant to the facts in issue, or to matters necessary to be known in order to determine whether or not such facts existed. Similarly, such appearance is not to be given in evidence in any proceedings against the person himself.

Licensing (Registration of Barmaids).—Under the operation of an Act which came into force on December 18, 1916, barmaids were required to register so as to legalise their employment, and applications for registration had to be lodged before February 1, 1917. It was found that the time allowed was insufficient in certain cases, and No. 2904 extends the time for these applications for registration to March 1, 1918.

Game.—No. 2893 amends the Game Act, 1915, No. 2658. It gives power to the Governor in Council to remove from the protected list the name of any bird or animal, or to alter the name of any bird or animal so included, or to name any other bird or animal as is to be included in the list. In some parts of Victoria deer have become a nuisance, and it was required to take power (not existing under the principal Act) to remove them from the protected list (s. 2).

If in any year the last day of the close season is a Saturday, the

close season for that year is to include the following day (s. 3). This is intended to stop shooting on Sunday, and to bring the Game Law into conformity with the Police Offences Law.

To protect the sanctuaries established in Victoria for native game penalties are provided by this Act for trespass in sanctuaries in search or pursuit of such game (s. 4).

In the principal Act provision had been made for keeping in cool storage, in the close season, native game supplied in the open season; but the provision had proved undesirable, and it is now repealed (s. 5).

The possession of egrets, whether killed or taken in Victoria or elsewhere, is prohibited (s. 6). The use of a single-barrel gun with a bore exceeding 8 calibre, and of a double-barrelled gun with a bore exceeding 10 calibre, is prohibited (s. 8).

Power is given to issue a search warrant to search private houses for any native game, eggs, flesh, skin, feathers or other portions of game (s. 11). Licences to hunt deer and to take and destroy mother-birds and the eggs of such birds are now to be issued by the Minister, and such licence may be made subject to the conditions that may be prescribed by proclamation (s. 12).

Fruit.—By the principal Act of 1915 Fruit Trusts had been constituted, and a majority of "orchardists" in a given area could have petitioned to the Governor in Council for the creation of such a Trust, which, when created, had power given to it to levy upon the owners of orchards within the Trust compulsory contributions to pay off advances obtained from the Government for cool stores. "Orchardists" had objected to be compulsorily enrolled and also to this compulsory contribution. In No. 2919 the constitution of Fruit Trusts remains, with the benefit of advances from the Government for cool stores; but the advances may be now made to any company registered under the Companies Act, and under the Provident Societies Acts for the purpose of establishing fruit works and carrying on the operations and business thereof, and the main provisions of Part I. specify the conditions under which such loans by Government may be made to such companies, and the means for securing their repayment to the Treasurer.

The remaining provisions deal with the packing and sale of fruit and vegetables, repealing the previous legislation on that subject and substituting more stringent sections. S. 22 provides:

(1) No person (whether by himself or by an agent or servant, or on behalf of another person) shall—

(*a*) Pack any fruit or vegetables intended for sale in a package unless (1) the fruit and vegetables are packed and graded as prescribed; and (2) the package is of the description, kind, capacity, materials, dimensions and measurements and in the condition prescribed; is marked as prescribed on the inside or outside, or both, and (if so prescribed) con-

tains a slip or label setting forth such particulars, statements, information or words as are prescribed; and does not contain a greater quantity of foreign substances, wrappers, packing material or advertising matter than is prescribed; or

(*b*) Sell any fruit or vegetables contained in a package (1) if such fruit or vegetables are not packed and graded as prescribed; or (2) if the package does not comply with this part of this Act and the regulations; or

(*c*) Sell the whole or any part of any lot of fruit and vegetables, or any fruit and vegetables taken from any lot unless (if the regulations so require) the lot is stacked or arranged as prescribed and the fruit or vegetables are graded as prescribed, and there is in a conspicuous position on the lot a ticket marked as prescribed.

Under the repealed provision an agent could not be prosecuted unless it could be shown that he had actually done the packing or instructed it.

The former sections dealing with powers, duties, privileges and procedure of fruit inspectors are also re-enacted, with some modifications. The liability of a vendor's servant for an offence committed without authority is the same as that of the vendor, and in certain circumstances the vendor, when charged, is exempt from blame.

Fisheries.—No. 2926 amends the Fisheries Act, 1915. Power is now given to remove from or to add to, by proclamation, any names of species of fish, as some fish no longer require protection, and some fish for the first time do require it (s. 2).

Power is also given to prevent the sale of fish taken outside of Victorian waters that could not be sold if taken from waters within the State, *e.g.* crayfish that had not been caught in Victorian waters could hitherto have been brought into the market in an immature condition and sold without penalty, and this is now prevented, and these young fish protected (s. 3).

The principal Act gave power to seize the boat and nets of any person illegally fishing, but not to take the haul of fish that had been made by their use, and this is amended so as to give power to seize the fish also (s. 4).

The Act protects, too, oyster broods in Victorian waters, giving them the same protection as to other young fish, and power is conferred upon the Fisheries Inspector and his assistants to the police to seize any bag or receptacle containing more oyster brood than one-twentieth of the whole number of oyster brood and oysters represented by the catch (s. 5).

An important addition to the law is the provision preventing any person, without the authority in writing of the Minister, putting any non-indigenous fish into any Victorian waters (s. 6). Hitherto

any person could introduce poor quality fish or ravenous fish into our streams, which led at times to the destruction of other fish of considerable value.

5. WESTERN AUSTRALIA.

[*Contributed by* F. L. Stow, Esq., *Crown Solicitor.*]

Acts passed—33.

The Acts passed by the Parliament of Western Australia in the year 1917 are thirty-three in number, and are a portion of the Acts passed in the third and fourth sessions of the Ninth Parliament and the first session of the Tenth Parliament—these sessions having extended from July 20, 1916, to March 30, 1917, and from July 19 to August 1, 1917, and from November 20, 1917 to May 30, 1918, respectively.

Juvenile Smoking.—No. 1 makes various small amendments in the law relating to the sale of liquor, and also provides that no person shall sell, give or supply tobacco in any form, or cigarette paper to or for the use of any person under the age of eighteen.

Footwear.—No. 2 is the Footwear Regulation Act, and provides, amongst other things, that no person shall manufacture or sell boots or shoes the soles of which do not consist entirely of leather, unless a statement of the materials comprising the sole is conspicuously and legibly stamped upon or impressed into the outer surface of the sole.

Elections.—No. 4 preserves the franchise of electors in His Majesty's Forces and enacts that their names shall remain, or may be placed on the rolls, notwithstanding their absence from the State.

Friendly Societies.—No. 6 empowers the trustees of Friendly Societies to sell, mortgage or lease the lands vested in them, except such land as shall have been acquired from the Crown by way of gift or free grant. It also gives the Registrar wide powers of investigation into the affairs of Friendly Societies and empowers the Committee of Management of a Society to suspend or modify in such manner as they may deem just the benefits of any member who is on active naval or military service during the present war.

Half-holiday.—No. 7 merely provides that persons employed in barber's shops shall be allowed a half-holiday on Saturdays instead of on Wednesdays.

Mental Treatment.—No. 9 is entitled "The Mental Treatment Act, 1917," and provides that, subject to regulations made by the Governor, any person who has been on naval or military service during the war and who is suffering from mental disorder of recent origin arising from wounds, shock, disease, stress, exhaustion, or other cause may be received for medical treatment into a hospital for the insane without an order or certificate being furnished as provided in the Lunacy Act.

It also provides that any one may receive to board or lodge, or may take charge or care of any such person subject to regulations made by the Governor, notwithstanding the provisions of the Lunacy Act.

Horse-racing.—No. 11 provides for the restriction of horse-racing. No race meeting is to be held without the licence of the W.A. Turf Club, and, subject to certain exceptions, the number of race-meetings to be held in the metropolitan area is not to exceed seventy-six in any year. Restrictions are also placed on trotting races.

State Industries.—No. 12 reveals the fact that the State Government has been launching out into all sorts of trading enterprises—saw-mills, brick-works, engineering works, quarries, shipping, fish-shops and others. The Act is for the purpose of regulating the establishment and carrying on of such concerns, and it starts by enunciating an important principle, namely, that no trading concern shall be established or carried on by the Government of the State without the express authority of Parliament. This provision was only carried after a political crisis had been surmounted. The Act provides for the control of every trading concern by a Minister, who is incorporated for the purpose. The accounts of each concern are kept distinct, and the annual estimates of the revenue and expenditure thereof are to be submitted to Parliament separately from the consolidated revenue estimates.

Fire Protection.—No. 13 is an Act to consolidate and amend the law relating to the protection of life and property from fire. It provides for the creation of a Fire Brigades Board, the members whereof are appointed or chosen partly by the Governor and partly by the various local authorities and insurance companies.

The districts of the various local authorities are made Fire Districts under the Act, and provision is made for the election of local committees to act in the various districts by the local authorities concerned. The Governor is also given power to create new districts or alter existing ones.

The Board is entitled to receive annual contributions sufficient to pay its expenses from the Government, the Insurance Companies and the local authorities in the respective proportions of $\frac{1}{4}$, $\frac{3}{8}$ and $\frac{3}{8}$.

Powers of rating are given to the local authorities for the purpose of raising the amount of their contributions.

Fire brigades may be established in the districts, and every such brigade shall, subject to the general powers and authority of the Board, be under the immediate control of an officer appointed by the Board and called the Chief Officer of Fire Brigades.

An important provision is made whereby the owner of any uninsured property which takes fire is made liable to pay the expenses incurred by any brigade attending the fire, according to the prescribed scale.

Income-tax.—No. 14. The most striking feature of this little Act

is the exemption from taxation of the income derived from personal exertion of persons on naval or military service—a provision which had a wider effect than was anticipated. In addition the Act amends the Land and Income-tax Act in various details.

Agricultural Bank.—No. 15 is an amendment of the Agricultural Bank Act. It confers additional powers on the Bank as mortgagee, and enables the Bank to make advances in aid of the settlement of returned soldiers.

Advances to Settlers.—No. 16 is an amendment of the Industries Assistance Act, 1915. By the principal Act a board is created for the purpose of making advances for the relief of settlers. This amendment is to improve the position of the board in various ways. It vests securities for advances in the board instead of in the Colonial Treasurer, as was formerly the case, gives the board a statutory charge on the lands and crops of the assisted settler without the necessity for the signature of any document by him, and it increases the powers of the board to enforce the security given by the Act.

This amendment also provides that the interest of any assisted settler in land over which the security of the board extends shall not be alienated or affected by any distress or execution, and it penalises any sale without the consent of the board of any crops comprised in the security. Power is given to accept repayment of advances by instalments and the making of advances after March 31, 1918, is prohibited.

Land Tenure.—No. 19 makes various amendments in the Land Act, of which the most important are:

(*a*) The abolition of the Central Division and its inclusion in the Eastern, thus fixing the divisions of the State at five, viz. South-West, Kimberley, North-West, Eucla and Eastern.

(*b*) The empowering of lessees of town or suburban lands to acquire the fee simple.

(*c*) The definition of the liabilities of pastoral lessees with regard to stocking their holdings.

(*d*) The power to defer for five years the rent of land hereafter let on conditional purchase lease and to defer for a like period the rent on any conditional purchase leases held by persons on naval or military service.

(*e*) The empowering of the Governor to set apart Crown land for settlement by returned soldiers, to improve such land before selection, and to dispose of it to them on special terms and conditions.

(*f*) Provisions whereby Crown land may be leased for pastoral purposes for a term expiring on December 31, 1948, at an annual rental to be determined by the Minister acting on the advice of the Board of Appraisers based on the pastoral capabilities of the land—such rent to be subject to reappraisement after the first fifteen years of the lease.

These provisions further enact that the maximum area to be held by any one under pastoral lease in one division shall be 1,000,000 acres, and that every lease shall be subject to the condition that improvements are to be effected on the land within five years from the commencement of the term to the value of £5 and within ten years to the value of £10 per thousand acres. Provision is further made for the surrender of existing leases and the acceptance in lieu thereof of fresh leases under the new conditions.

6. NEW ZEALAND.

[*Contributed by* JAMES CHRISTIE, ESQ.]

Acts passed—Public and General, 29 ; Local and Personal, 16 ; Private 1.

With but few exceptions the Public and General Acts passed during the session of 1917 may properly be classified as "war legislation." Since the commencement of the war the annual output of legislation has been much reduced in bulk, practically no general legislation of importance having been dealt with by Parliament during its last four sessions.

Expiring Laws Continuance.—The Expiring Laws Continuance Act (No. 3) extends the duration of certain "emergency war legislation" until August 31, 1918. Of the Acts so extended the most important are the following :

(1) The Mortgages Extension Act, 1914, and its amendments (preventing mortgagees from calling up any principal moneys except with the precedent leave of the Supreme Court).

(2) The Trading with the Enemy Acts.

(3) The Regulation of Trade and Commerce Act, 1914, and its amendments (providing, *inter alia*, for fixing maximum prices of commodities during the continuance of the war).

War Purposes Loan.—The War Purposes Loan Act (No. 4) as extended by the War Purposes Loan Act, No. 2 (No. 18), authorises the Minister of Finance to borrow, on the security of the public revenues, an amount not exceeding £28,000,000. To secure the co-operation of investors of limited means the scheme for the sale of "War Loan Certificates" (first adopted in the case of the War Loan of 1916) is repeated. "War Loan Certificates" of nominal values of £1 and £10 respectively are sold at a discount by the Postmaster-General, to be redeemed at their face value on the expiration of five years from the date of issue. Except in this indirect manner the certificates are not interest-bearing. The proceeds of the sale of war loan certificates are paid into the Post Office account and invested in the War Loan by the Postmaster-General.

Except as otherwise provided in the Finance Act (No. 9) with respect to Post Office War Bonds, the income derived from investments in the War Loan is free from income-tax.

Provision is made (s. 5) for the issue of securities to the value of £1,000,000 to be available for the payment of death duties. By s. 76 of the Finance Act this provision is limited so as to be applicable only to investments in "inscribed stock."

The following additional provisions with respect to the "War Loan" are made by the Finance Act (No. 9):

(1) *Compulsory Subscriptions to War Loan.* In order to ensure the success of the loan, s. 40 of the Finance Act, 1917, imposes an obligation on every taxpayer to contribute an amount equal to three times the total amount of land-tax and income-tax (exclusive of excess profits duty), payable by him under the Finance Act, 1916. The obligation so to contribute to the War Loan is not enforceable, however, unless and until a demand in that behalf is served on the taxpayer under the hand of the Commissioner of Taxes. From every such demand the taxpayer has a right of appeal to a special board consisting of the Controller and Auditor-General, the Commissioner of Taxes, the Secretary to the Treasury and the Government Insurance Commissioner.

(2) War Loan Certificates may, if the Postmaster-General thinks fit, be purchased on a system of time-payments (s. 67).

(3) The Minister of Finance is authorised, for the purposes of the War Loan, to issue special debentures, known as Post Office War Bonds, for values of not less than £100 or more than £500, bearing interest at the rate of 5 per cent. per annum subject to income-tax. No investor is competent to have issued to him more than £500 worth of Post Office War bonds (s. 68).

(4) Trustees are authorised to borrow moneys on the security of the trust estate and to invest the proceeds in inscribed stock of the War Loan (s. 70).

(5) The powers of public companies are defined to include power to invest "any moneys of the company, and any reserve funds, and any other funds established by the company for any special purposes" upon inscribed stock or other securities issued in respect of *any* war loan (s. 71).

(6) Local authorities and public bodies are empowered to invest funds in inscribed stock of any war loan (s. 72).

(7) The Government Life Insurance Department and all Savings Banks (under the Savings Banks Act, 1908) are authorised to invest funds in the War Loan (s. 75).

Regulation of Trade and Commerce.—The Regulation of Trade and Commerce Amendment Act (No. 5) was passed consequent upon the imposition of an import duty on tea, in order to prevent dealers making an undue profit on tea that had been imported before the imposition of the tax. The Act fixes the maximum price to be charged for tea so imported, and applies the penal provisions of the Regulation of Trade

and Commerce Act, 1914, in the case of sales or attempted sales in excess of such maximum price.

Inscribed Stock.—The New Zealand Inscribed Stock Act (No. 6) makes provision for the inscription in New Zealand of stock secured on the public Revenue.

The Act provides for the keeping of a Register of Inscribed Stock, with particulars as to:

(*a*) The name and description of the holder;
(*b*) The amount of stock held by him;
(*c*) The principal moneys invested in such stock;
(*d*) The rate of interest payable; and
(*e*) The due dates for payment of interest and repayment of principal.

Provision is also made for the issue of stock certificates which are transferable by delivery and entitle the holder for the time being to receive any interest accruing due on the stock to which the certificates relate and also to receive payment of the principal moneys represented by such certificates as those moneys become payable. Provision is also made for the issue of "certificate of title" to inscribed stock. While any such certificate of title is outstanding in respect of any stock the Registrar is debarred from issuing a "stock certificate" in respect of the same stock. The transfer of a certificate of title has no legal operation; the certificate is merely evidence of title, and the fact that a certificate of title has been issued and remains uncancelled prevents any dealings with the stock.

Inscribed stock may be transferred by memorandum of transfer, in the prescribed form, in amounts of £10 or a multiple of £10.

The administration of the Act is in the hands of the Registrar and Deputy Registrar.

Revocation of Naturalisation.—The Revocation of Naturalisation Act (No. 8) provides as follows: "If the Governor-General in Council is satisfied with respect to any naturalised British subject[1] that it is expedient for the welfare or defence of the realm, or the peace and good government of New Zealand, or otherwise on grounds of public policy, that the naturalisation of that person should be revoked, he may, by Order in Council, declare that the naturalisation of the said person shall be revoked, and that the said person shall cease to be a British subject naturalised in New Zealand as from a date to be specified in that Order in Council, and every such order shall have effect according to its tenor."

Unless expressly provided in the order of revocation, such an order does not affect the nationality of the wife or children of the person to whom it relates. Any order of revocation may be in like manner annulled or revoked.

[1] That is, naturalised in New Zealand.

Finance.—The Finance Act (No. 9) is divided into six parts: Land and Income-tax; Customs and Excise Duties; Amusements Tax; Banking and Loans; Pensions; Stamp Duties.

Part I., *inter alia*, repeals the provisions of the Land and Income-tax Act, 1916, relating to Land-tax. By that Act two forms of land-tax were imposed, known respectively as ordinary land-tax and graduated land-tax. These two forms of land taxation have been abolished by the Act of 1917, and one form of land-tax, assessed on a graduated scale, has been substituted. The incidental provisions are practically a re-enactment of the corresponding provisions of the Land and Income-tax Act, 1916, relating to graduated land-tax.

With respect to the assessment of income-tax, the following changes have been made:

(1) Under the Land and Income-tax Act, 1916, a special exemption from taxation was allowed to every taxpayer (irrespective of the total amount of income) in respect of £300 of assessable income. This provision is modified by the Act of 1917, which substitutes an exemption of £300, diminished by £1 for every £1 by which the yearly assessable income exceeds £600, so as to leave no exemption (under this provision) in the case of incomes of £900 or upwards.

(2) The special exemptions allowed to taxpayers in respect of dependent children are extended so as to apply irrespective of the number of children or the amount of the parent's income. The amount of exemption (viz. £25 of assessable income for each child) remains unaltered. The original provision limited the exemption so as to apply to five children only, and not to apply in any case where the combined assessable income of the father and mother exceeded £425 per annum.

(3) The naval or military pay of members of the Expeditionary Force is exempted from taxation.

(4) The State Fire Insurance Office is made liable for taxation in the same manner as if it were an ordinary insurance company.

The rates of taxation for the year (including land-tax, ordinary income-tax, and a "special war-tax" by way of income-tax) are set out in the First and Second Schedules to the Act.

Part II. (Customs and Excise Duties) imposes increased import duties on the several classes of goods specified in the Third Schedule, at the rates therein specified (s. 42).

It also increases the rates of excise duty payable on beer manufactured in New Zealand (s. 45), and on tobacco (including cigars, snuff and cigarettes) manufactured in New Zealand (s. 49).

Part III. imposes a new form of taxation (under the name of Amusements Tax), assessed on the amounts charged for admission to any entertainment. The rate of taxation is as follows:

Charge for admission to entertainment.	Amount of tax.
Between 6*d.* and 2*s.* 6*d.*	1*d.*
,, 2*s.* 6*d.* and 5*s.*	2*d.*
,, 5*s.* and 7*s.* 6*d.*	3*d.*
,, 7*s.* 6*d.* and 12*s.* 6*d.*	6*d.*
Exceeding 12*s.* 6*d.*	1*s.* for first 12*s.* 6*d.* with additional 1*s.* for every 10*s.* or part of 10*s.* in excess of 12*s.* 6*d.*

The provisions follow in all material particulars the corresponding provisions of the Imperial Acts relating to "amusements tax."

Most of the provisions of Part IV. have been discussed in connection with the War Purposes Loan Act (No. 4).

Provision is also made for a loan of £1,850,000, of which a sum not exceeding £1,000,000 is to be available for public works undertaken with a view to providing work for discharged soldiers (ss. 77–79).

Part V. (Pensions) temporarily increases (for the duration of the war and twelve months thereafter) the amount of pension payable to persons in receipt of (*a*) an old-age pension; or (*b*) a widow's pension; or (*c*) a pension in respect of the disease known as miner's phthisis; or (*d*) a pension to persons for service in the Maori wars. The widow's pension is increased by an amount of £6 a year for each dependent child, and the other pensions by an amount of £13 a year.

The provisions of Part VI. relate to unimportant matters connected with the administration of the office of the Commissioner of Stamp Duties.

Parliamentary Representation.—The Parliamentary Representation (Expeditionary Forces) Adjustment Act (No. 11) replaces the provisions of s. 3 of the Parliamentary Elections Postponement Act, 1916. It directs the Representation Commissions, when dividing New Zealand into electoral districts (on the basis of population), to take into account the number of men ordinarily resident in any locality, but who, on the date of the taking of the last census, were concentrated in camps of military training in New Zealand, or were serving with the Expeditionary Force out of New Zealand.

Registration of Aliens.—The Registration of Aliens Act (No. 12) requires all unnaturalised aliens within New Zealand, or entering New Zealand after the passing of the Act, to register with the Government statistician particulars, *inter alia*, as to name, age, date and place of birth, nationality and place of abode; in the case of married aliens similar particulars are to be supplied in respect of the wife or husband (as the case may be) of the registering alien. Registration is effected through the Police Force (in the case of aliens now resident in New Zealand), and through the Customs officials (in the case of aliens entering New Zealand). Changes of address (except within the boundaries of

the same borough or county) are required to be forthwith notified to the proper officer of Police.

Compulsory Military Service.—The Military Service Amendment Act (No. 14)enables the Minister of Defence, in calling up the residue of any class or division of the Expeditionary Force Reserve, to dispense with the formality of a ballot if more men are required to be called up than remain in the division or class.

Public Trust Office.—The Public Trust Office Amendment Act (No. 15) makes provision for the appointment of two Assistant Public Trustees, with powers equal to those of the Public Trustee. The Public Trustee and his assistants together constitute a Public Trust Office Board and take over the functions of the board appointed under the principal Act. This latter board is reconstituted as the Public Trust Office Investment Board, and its powers are restricted to the control of moneys available for investment in the common fund.

War Pensions.—The War Pensions Amendment Act (No. 16) very considerably extends the benefits of the scheme for the payment of pensions (and of allowances in the nature of pensions) to disabled members of the New Zealand Expeditionary Force (including the Naval Forces) and to the dependants of deceased or disabled members. In the first place, the rates of pensions to disabled members, their wives and children, and to the wives and children of deceased members, are increased throughout; in the case of the death of a soldier, the lowest pension to his widow is £1 10*s*. a week; if she has one or more children this is increased to £2; and an additional 10*s*. a week is payable in respect of each child; in a case of disablement a man may receive £2 a week in his own right, his wife may receive £1, and an additional amount of 10*s*. a week is payable in respect of each child. The above rates are open to increase under the special provisions of the Act as to re-establishing the soldier and his family in their pre-war standard of comfort.

In the second place, fixed rates of pension (in accordance with the Third Schedule to the Act) are provided for certain specific forms of injury, based on the relative seriousness of the injury in comparison with complete disablement.[1] Thus, for the loss of two limbs, or of a limb and an eye, a man is entitled to claim a pension at the highest rate prescribed for disablement; for amputation of right arm through shoulder-joint, he is entitled to claim 85 per cent. of a full pension; for amputation of left arm, 80 per cent.; for loss of three fingers of right hand, 40 per cent.; of left hand, 30 per cent.; for loss of index finger, 20 per cent.; and so on for other specific injuries.

Alternative Pensions.—The Pensions Board is empowered to increase the aggregate rates of pension payable to a member of the forces and

[1] A similar schedule is in use with respect to claims for compensation under The Workers' Compensation Act, 1908.

his family by not more than £1 a week (but so as not to exceed in the aggregate £5 a week) if it is satisfied that the aggregate pensions, together with the average earnings of the member, are not sufficient to enable him to maintain his family in the standard of comfort to which they were accustomed before the war.

So also, in the case of a widow and children, the board may increase the rates of pension by 15*s*. a week, but so as not to exceed in the aggregate £4 a week.

Medical Treatment.—To encourage partially disabled soldiers to take advantage of the facilities offered for medical and other curative treatment, the board is given discretion:

(*a*) To reduce by one-half the amount of pension payable to a man who refuses or wilfully fails to undergo such treatment; and

(*b*) In the case of a man undergoing such treatment, to increase temporarily the amount of the pensions payable to him and his family, but so as not to exceed either the amount that would be payable in the case of his total disablement, or the sum of £5 a week (whichever is the greater).

Maximum Pensions to Widows and Orphan Children.—In the case of the death of a member of the forces, pensions at the maximum rates are assured to his widow and children. Any discretion that may have been formerly vested in the board to reduce the amount (having regard to the special circumstances of the applicants) is expressly taken away (s. 11).

Extension of Pension Scheme.—Originally the pension scheme was limited to cases where the death or disablement of the soldier by whom or in respect of whom the claim was made was due to his military service. By s. 16 of the present amending Act, the scheme is extended so as to allow of pensions being paid, notwithstanding that the death or disablement of the soldier may be due to some cause wholly independent of his military service.

Widowed Mothers.—Where application for a pension is made by the widowed mother of a deceased soldier, it is now provided by s. 13 that the applicant shall be entitled to a pension at the same rate as if she were the widow of the soldier, without children; where a widowed mother proves partial dependency on a son, deceased or disabled, the minimum pension is half the amount that would be payable if she had been totally dependent.

Pensions to Guardians of Children (*de facto*).—By s. 19, the Pensions Board is empowered to grant a pension not exceeding £1 a week to any woman (not being the widow of the member) who satisfies the board that she has the control and care of any child or children of a deceased member of the forces.

Settlement of Discharged Soldiers.—The Discharged Soldiers Settle-

ment Amendment Act (No. 17) extends the scheme for the settlement of discharged soldiers on Crown and private land. It empowers the Minister of Lands to advance moneys to discharged soldiers in respect of the purchase of private land, to pay off existing encumbrances and to carry on farming operations on land acquired otherwise than under the principal Act (1915, No. 45).

Ss. 3 and 4 provide a scheme for the erection and disposal of dwellings for discharged soldiers based on the provisions of the Workers' Dwellings Act, 1910. The dwellings provided pursuant to the scheme are to be disposed of to discharged soldiers on a system of time payment (with periodic instalments consisting partly of principal and partly of interest).

Sale of Intoxicating Liquor during War.—The Sale of Liquor Restriction Act (No. 19) provides for the closing of premises licensed for the sale of intoxicating liquors between the hours of 6 p.m. and 9 a.m. during the continuance of the war and for six months thereafter. Prior to the commencement of this Act (on December 1, 1917) licensed premises could be kept open from 6 a.m. till 10 p.m. (except on certain holidays and Sundays). The Act makes provision for the adjustment of rents and other charges between the owners of premises and the licensees consequent on the restricted hours of sale. The law relating to the hours during which liquor may be sold or consumed in chartered clubs is altered so as to bring it into conformity, during the continuance of the Act, with the provisions as to sales in licensed houses.

War Legislation.—The War Legislation Act (No. 21) is a miscellany of special emergency legislation. Parts I. and II. relate to the rights and powers of aliens.

Part I. (ss. 2 to 10) relates to the acquisition of land in New Zealand by alien enemies.

S. 2 defines the term "forfeitable estate or interest" in land as an "estate or interest, whether legal or equitable, which is incapable of being held as against the Crown by an alien enemy." The definition has reference to the rule of common law (abrogated by statute in the case of alien friends) by virtue of which an alien is debarred from holding land in England or in English colonies as against the Crown.

S. 3 provides a convenient judicial procedure for enforcing the rights of the Crown in respect of any "forfeitable estate or interest." It confers on the Supreme Court jurisdiction, on the information of the Attorney-General, to vest in the Public Trustee in trust for His Majesty any forfeitable estate or interest in land in New Zealand acquired by an alien enemy since the commencement of the present war.

S. 10 declares absolutely void every contract made after the commencement of the Act, and during the continuance of the war for the acquisition by or on behalf of an alien enemy of any freehold interest in land in New Zealand, or of any leasehold interest with a currency of

more than two years. Every party to such a contract is liable on summary conviction to a fine of £100, or to imprisonment for three months.

Part II. defines the electoral rights of all aliens in relation to local (as distinguished from parliamentary) elections. Alien enemies are prohibited from voting at such elections, or of being elected as members of any local authority. Aliens (other than alien enemies) are debarred from election or appointment, but may vote at any such election unless specifically debarred by the provisions of some other Act. Every person who, being disqualified from election or appointment as a member of a local authority by virtue of the Act, accepts nomination for election or accepts appointment, and every person who, being disqualified from voting, votes or attempts to vote, commits an offence, and is liable on summary conviction to a fine of £100 or imprisonment for three months, or to both such fine and imprisonment.

Part III. affords a limited relief in the case of burdensome contracts affected by the war.

In the case of a contract to which any soldier is a party, jurisdiction is conferred on Stipendiary Magistrates, on application in a summary manner, to make an order for the cancellation, suspension, modification or extension of such contract with a view to affording relief to the soldier, having regard to his obligation to military service, and the conditions created by the war. For the purposes of this provision the term "contract" includes a lease or licence.

Ss. 16 and 17 are not limited in their application to soldiers' contracts. S. 16 is similar to the provisions of subs. 2 of s. 1 on the Defence of the Realm Amendment (No. 2) Act, 1915 (Imperial), and affords protection to contractors in cases where fulfilment of the contract is interfered with by reason of the requirements of the Admiralty or the Army Council. S. 17 affords relief from compliance with certain contracts entered into before the war (*e.g.* contracts for the construction of any building or work or the supply of materials, or contracts giving the right to cut and remove timber growing on any land). By virtue of the last-mentioned section the Supreme Court is empowered, having regard to all the circumstances of the case, to suspend or annul the contract, or extend the term thereof, or to stay any proceedings for enforcement of the contract or the rights thereunder.[1]

Part IV. (restriction on increase of rent) amends the provisions of Part I. of the War Legislation Amendment Act, 1916, which imposes restrictions on the increase of rents during the period of the war. The earlier Act is based on the corresponding provisions of the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915 (Imperial). The amending legislation—

[1] *Cf.* subsection 1 of section 1 of the Courts (Emergency Powers) Act, 1917.

(1) Places the administration of the Act (with a view to protect the interests of tenants) under the Inspector of Factories;

(2) Applies the Act to furnished dwellings; and

(3) Adopts, as the basis of value on which the standard rent of any dwelling may be calculated,[1] the value of that dwelling immediately before the war.

Part V. (Miscellaneous) contains, *inter alia*, provisions for the following purposes:

S. 22 empowers local authorities, with the consent of the Governor-General and without taking a poll of the ratepayers, to borrow moneys for providing employment on public works for discharged soldiers.

S. 27 empowers the Governor-General by warrant to authorise the seizure of any land or buildings required for public purposes during the war.

Ss. 28 and 29 restrict the voluntary retirement of public servants, on superannuation, during the war.

S. 30 establishes a system of "bursaries" to be available for the children of deceased or disabled members of the New Zealand Expeditionary Force.

S. 34 validates all war regulations made, or purporting to be made under the authority of the War Regulation Act, 1914 (and its amendments).

S. 35 extends the power of the Governor-General to make war regulations. *Inter alia* the power is given to restrict or prohibit the employment of labour or capital in non-essential industries or purposes.

Venereal Disease.—The Social Hygiene Act (1917, No. 24) imposes certain obligations on persons suffering from any venereal disease, and others, with a view to preventing the spread of such disease, and of effecting the cure of persons suffering therefrom.

S. 3 imposes an obligation on all persons suffering as aforesaid to undergo treatment by a registered medical practitioner, or at a public hospital.

S. 4 imposes on the medical practitioner treating such a patient a duty—(*a*) to direct his attention to the infectious character of the disease; (*b*) to warn him against contracting marriage while suffering from the disease in a communicable form; and (*c*) to give to the patient any printed matter that may be supplied to him for the purpose by direction of the Minister of Public Health.

Persons suffering from any such disease are debarred from employment in any capacity that would involve the handling of food intended for consumption by members of the public.

[1] Under the earlier legislation, if the rent derived from any dwelling is not equal to at least 8 per cent. of the capital value, the rent may be increased so as to produce not more than 8 per cent.

S. 7 makes it an offence for any person other than a registered medical practitioner to undertake the treatment of any venereal disease for fee or reward.

S. 8 makes it an offence for any person knowingly to infect any other person with venereal disease.

By s. 9 the Governor-General is empowered to prohibit the sale of certain drugs except pursuant to a medical prescription.

S. 12 provides for the appointment of "Health Patrols," having the powers, protection and privileges of police constables, whose special duty is to protect the health and morality of young persons.

S. 13 imposes on all Hospital and Charitable Aid Boards, on the requisition of the Minister of Public Health, an obligation to provide effective accommodation for the "reception, accommodation, examination and treatment of persons suffering from venereal disease."

Statute Law Amendment.—By the Statute Law Amendment Act (No. 28) provision is made *inter alia* for the following matters:

(1) By s. 14 the functions of the Prisons Board (established under the Crimes Amendment Act, 1910) are extended. Under the original Act the Board has power to make recommendations, after proper enquiry, for the release on probation of any person undergoing imprisonment as an habitual criminal or habitual offender, or of any person undergoing reformative detention. The amendment confers on the Board similar power with respect to persons undergoing imprisonment for terms of two years or upwards, if not less than half the sentence has, in any case, been served.

(2) S. 21 amends the scheme of the Regulation of Trade and Commerce Act, 1914. The object of the amendment is to enable the Governor-General tentatively to fix the maximum price of any commodities by reference to the ruling price as on any particular date. The price having been so fixed in any case, an opportunity may be given to persons concerned in any proposal to increase the price to show cause why such an increase should be allowed, having due regard to the public welfare.

Discharged Soldiers.—By s. 26 of the Appropriation Act (1917), No. 29, the Governor-General is empowered to make regulations authorising advances being made from the Discharged Soldiers' Employment Act, with a view to protecting from deterioration the property of members of the Expeditionary Force during their absence from New Zealand.

7. FIJI.

[*Contributed by* A. K. YOUNG, ESQ.]

Ordinances passed—29.

Rotuma Lands.—No. 1 regulates the tenure and disposal of lands in the dependency of Rotuma so as to preserve, as far as possible, ancient custom amongst the natives of that dependency.

Government Currency Notes.—No. 2 amends the principal Ordinance so as to allow of the investment portion of the Note Guarantee Fund being invested in the Fiji War Loan. Investments in the Colony are not otherwise allowed.

Branding of Cattle.—No. 3 provides for the tattooing of cattle as an alternative to the ordinary method of branding by burning the skin or cutting the ear, a method which offends against the religious susceptibilities of Hindoos and Sikhs.

Undesirable Immigrants.—No. 7 gives power to prevent the landing in Fiji of politically undesirable persons, and to deport any such persons if already landed within the Colony.

Enemy Property.—Ordinance No. 11 is modelled on an Ordinance passed in Nigeria. The expression "enemy" in the Fiji Ordinance is defined to include naturalised British subjects of enemy origin. This step was taken so as to prevent any such persons from buying in enemy properties, and thus defeating the object of the law.

Custodian of Enemy Property.—No. 12 follows similar legislation elsewhere on the subject with a few slight modifications.

Alien Immigration.—No. 20 places certain restrictions upon the immigration of aliens into the Colony for the purpose of undertaking missionary or educational work. Exemption is made in favour of any member of any religious society or body established within the Colony at the date of the passing of the Ordinance provided such member is not an enemy subject.

Methylated Spirits.—No. 21 regulates the importation and denaturation of methylated spirits with the object of rendering them non-potable.

Immigration Fund.—No. 24 imposes an export duty of 5*s.* per ton on all sugar and on all copra exported from the Colony for the purpose of building up an Immigration Fund.

Public and Bank Holidays.—No. 25 amends and amplifies the law relating to public holidays. Power is taken to proclaim holidays either in addition to or in substitution for those appointed by law.

Education.—Ordinance No. 27 admits of suitable schools for the education of Indian children in the vernacular receiving Government assistance. Compulsory teaching of English is suspended in the case of Vernacular Schools. The Ordinance also admits of assistance from public funds being given to private training schools for the education of teachers.

Indian Immigration.—The object of Ordinance No. 28 is to afford further relief to Indians serving under contract of indenture. It provides, *inter alia*, for a bonus in certain cases payable in addition to the minimum rate of wages prescribed in the principal Ordinance. It keeps alive the right of the Indian to conform to the conditions prescribed to entitle him to the commutation of his indenture, and, further, it gives

an indentured woman legally married to an indentured male at the date of his obtaining his certificate of discharge the right of commuting any unexpired term of her indenture.

8. THE GILBERT AND ELLICE ISLANDS.

[*Contributed by* A. K. YOUNG, ESQ.]

During the year 1917 there were seventeen Ordinances passed, of which the following are the principal:

Marriage.—No. 1 provides for the issue of a certificate for marriage in any case when a British subject resident in the Colony intends marriage in the United Kingdom.

Native Laws.—No. 2 confirms certain native laws of the Gilbert, Ellice and Union Groups of Islands passed by the native governments in 1916, and requires observance of the same. The laws referred to deal with the constitution of native magistrates, island police, etc., as well as providing for the punishment of crime.

Alien Enemy Trade Disposal.—The title sufficiently indicates the nature of Ordinance No. 8 and its provisions.

Cinematograph.—No. 9 regulates public cinematograph exhibitions.

Ocean Island Defence Force.—No. 10 constitutes a defence force for Ocean Island on the lines of the Fiji Defence Force Ordinance, 1914.

Licences.—No. 15 provides for the imposition of licence fees, *inter alia*, in the case of stores, dealers in wines, spirits and firearms, motor-cars, bicycles, etc., as well as licences for ships employed in trading or recruiting of native labour, and for boats and punts.

Native Lands.—No. 16 regulates the sale and lease of native lands. Alienation of native lands to non-natives is prohibited, except in the cases of leases which are subject to the approval of the High Commissioner.

Consolidation Ordinance.—No. 17 deals with the following matters: (1) Sale of intoxicating liquors; (2) Payments of fines, taxes, wages, etc., in the coin of the United Kingdom; (3) Native passenger traffic by sea; (4) Collection and removal of guano; (5) Prohibition of use of explosives for fishing; (6) Exclusion from the Colony of destitute and undesirable persons; (7) Capitation tax.

9. BRITISH SOLOMON ISLANDS PROTECTORATE.

During the year 1917 six laws, styled King's Regulations, were passed, of which the following are the principal:

Patent.—No. 1 affords protection in the Solomon Islands to persons to whom letters patent in respect of inventions have been granted in the United Kingdom.

Marriage.—No. 2 provides for the issue of a certificate for marriage

in every case where a British subject resident within the jurisdiction intends marriage in the United Kingdom.

Copyright.—No. 4 makes provision for the purpose of the application to the British Solomon Islands Protectorate of s. 14 of the Copyright Act (Imperial), 1911.

IV. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.

[*Contributed by* E. L. MATTHEWS, ESQ., K.C., C.M.G.]

Acts passed—44.

The session of the Union Parliament in 1917 was again of long duration, and was productive of a statute-book of the same dimensions as that of 1916. The session commenced early in February, and continued, except for a few days' recess at Easter, until the first week in July.

It will be convenient, as in the review of Union legislation of 1916, to classify the statutes passed, under four headings: I. Consolidating, unifying or administrative legislation; II. Financial legislation; III. Special war legislation; IV. Miscellaneous legislation.

Education.—The Higher Education Further Provision Act (No. 20) is in the first category. It may be described as complementary to the three University Acts of 1916, in that it completes those measures governing higher education which have been in preparation since the days immediately succeeding the establishment of Union. Of the eight collegiate institutions or university colleges which existed at that time, two were by the Acts of 1916 incorporated as separate Universities, viz. Cape Town and Stellenbosch, while the other six have become constituent colleges of the federal University of South Africa, which is also incorporated by an Act of 1916 and the seat of which University is at Pretoria. Each such constituent college, however, remains, as regards internal management, subject to the special Act (in each case a pre-Union Act) under which it was established and continues to possess its own governing body, professional and administrative staff and curriculum.

The Act of 1917 now under review is designed for the purpose of inducing some measure of uniformity in these matters of internal management, and in addition of ensuring uniformity in financial treatment as regards Government grants and loans. Under Chapter I., each college becomes a *State-aided* institution, two of them previously having been State institutions. Each college is authorised to appoint a principal, subject to the Minister of Education's approval, a condition made necessary by the financial dependence of such college on the Government grant-in-aid. The Government is authorised, on the application of the

governing body of any college, to alter the constitution of that governing body by increasing or decreasing within prescribed limits the number of Government representatives and by providing for the representation on it of past students, donors or municipal or local authorities. The disqualifications for membership of the governing body of any of these colleges are made uniform. Each college will also have a senate to superintend and regulate matters relating to the educational curriculum and teaching and the discipline of its students.

Chapter II. unifies the provisions under which Government loans are granted not only to these colleges but to the two one-college Universities established by the Acts of 1916 at Cape Town and Stellenbosch.

Chapter III. enables regulations to be made, subject to the specific approval of Parliament, with regard to the details of the financial assistance which the Government gives in the form of grants-in-aid to each college and to those two Universities. Regulations may also, subject to like approval, be made in regard to the appointment and dismissal, the emoluments of office and the leave and other privileges of the teaching and administrative staffs of all these institutions. Such matters are inevitably bound up with the financial assistance given and the control exercised by the Government. Some seventy of such regulations were framed and were specifically approved by Parliament before the close of the session.

Chapter IV. contains certain miscellaneous provisions, all of which are for the purpose of maintaining as far as practicable the principle of uniformity in constitutional matters, and matters of internal management. These provisions deal with the prohibition of the imposition of tests of religious belief; the power to refuse admission to students and to expel students; grants of land by local authorities to the colleges, and the keeping of accounts and returns of expenditure.

Fertilisers and Food-stuffs.—Fertilisers, Farm Foods, Seeds and Pest Remedies Act (No. 21) is a measure which extends, with some modifications, to the whole Union Act, No. 20 of 1907 of the late Parliament of Cape Colony, and repeals that Act. The principal of the modifications so made are as follows: As regards fertilisers the Cape Act was confined to the conferment upon the Government of a power to make regulations as to (1) the registration of brands of fertilisers; (2) the prevention of the sale of unregistered fertilisers or of fertilisers which are not of the nature and composition demanded by the purchaser, or which are liable to convey contagion; (3) the furnishing of guarantees on the sale of fertilisers. Provision for a Government analysis of fertilisers was consequently included in the Cape Act. All these provisions have been included in the New Union Act, and in addition certain prohibitions relating to sale of fertilisers have been specially enacted therein. For example, no one may sell, as a fertiliser, an article which does not con-

tain, in a form or combination available as plant food, nitrogen or phosphoric oxide, or potash or lime; while every one who sells a fertiliser must give to the purchaser by means of an invoice at the time of delivery the registered name or brand of the article sold and its chemical constituents. That invoice is to be regarded as a warranty. No one may import bones for the purpose of manufacturing a fertiliser or import into, or sell within the Union, fertilisers manufactured outside the Union unless he produces a certificate from the country of origin to the effect that the bones or the fertiliser have been completely sterilised. A corresponding provision is enacted as to fertilisers manufactured in the Union from bones.

As regards farm foods, the Cape Act of 1907 contained similar provisions as the provisions relating to fertilisers, viz. wide powers to make regulations on the lines indicated above. The new Union Act contains like provisions, and in addition applies to farm foods those provisions as to warranties which have just been described in regard to fertilisers. The Act also lays down that if a farm food is sold under a name or description implying that it is prepared from particular substances, or is the product of particular seeds, and no indication is given that the farm food is mixed or compounded with any other substance or seed, there is implied a guarantee by the seller that such farm food is pure and is prepared as prescribed.

Certain specified farm foods are not required to be registered or to be the subject of warranty. But in other respects farm foods may, under the Act, be made subject to the same provisions as to compulsory registration as may fertilisers.

In regard to seeds, the Cape Act of 1907 provided that it should not be incumbent on the seller of any package of seeds to furnish to the purchaser a guarantee of purity or germinating capacity, but the absence of such a guarantee did not exempt the seller from prosecution if packets of seeds, sold without a guarantee, contained killed or dyed seeds or seeds not of a quality guaranteed. The new Act provides:

(1) That in the sale of seeds there must be attached to the package a written label giving the name of the seed; that label becomes in itself an implied warranty by the seller that the seeds in the package are not below the prescribed standard of purity and germinating capacity;

(2) That if the seller describes at the time of sale the nature or quality of the seeds sold by him, it is an offence if seeds of another nature or quality are supplied to the purchaser.

The provisions of the Act relating to pest remedies are a reproduction of those of the Cape Act. They prescribe compulsory registration of such articles under regulations, the manner in which warranties, if any, are to be given, and the manner of marking, labelling and branding of packages containing pest remedies.

The administrative provisions of the Act as to analysis do not differ materially from the corresponding provisions of the Cape Act of 1907, but special powers, not conferred by that Act, are given by the new Act for entry by Government inspectors and others upon premises and for the inspection of articles found therein. In addition, the procedure to be followed when samples are taken for analysis is set forth in some detail.

Telegraph Messages.—The Telegraph Messages Protection Act (No. 26) prescribes a period of 72 hours, during which cable and other telegraphic messages sent either from outside the Union to a place within the Union or from one place to another within the Union for purposes of publication therein in any newspaper shall be protected against publication by any one other than the person to whom the message was sent, or one acting with the latter's authority and consent. At the date of Union in three of the four colonies which entered into Union there existed similar legislation. The Cape Colony Legislature, as far back as 1880, had enacted a protecting period of 120 hours for such messages. Natal had followed suit in 1895 by enacting a protecting period of 72 hours, which in 1896 was extended to 100 hours. The Transvaal Crown Colony Legislature in 1902 enacted that the protecting period should be 72 hours. In the first two mentioned colonies the period was counted from the time of the first publication of the message by the person entitled to publish it, the maximum being fixed in the case of the Cape at 130 hours, and in the case of Natal 50 hours from the time of the receipt of the message in the Colony, the whole of Sunday being left out of the calculation. In the Transvaal no such maximum period was fixed, it being assumed that no newspaper would withhold or delay publication of such a message; but every newspaper containing a protected message was deemed to be published at 6 a.m. on the day of publication (whatever might be the actual hour of issue of the paper) unless another hour was expressly stated as the time of issue. These pre-Union statutes have remained in force in their respective provinces; and it was obviously desirable, both owing to the unification of the several ex-colonial telegraphic departments, and for other reasons, that a uniform period of protection should be fixed. In fixing that protecting period at 72 hours (as indicated above) the new Union Act prescribes 84 hours from the time when the message was received at the telegraph office as the maximum period of protection. Thus, a newspaper which for any reason withholds publication of a message received by it, cannot expect protection. In addition, *bona fide* comment in a weekly or monthly newspaper on a telegraphic message which has been issued after the expiry of twelve hours from the first publication of the message is not to be regarded as an infringement of the protection of the message.

Criminal Procedure.—The Criminal Procedure and Evidence Act (No. 31) is the longest piece of consolidating and unifying legislation which has been passed in South Africa since the establishment of Union, and with the Magistrates' Courts' Act (No. 32) (with important provisions complementary to the Criminal Procedure and Evidence Act) is a measure which is likely to have important results in connection with the administration of justice. Neither Act touches substantive law in any important particular. Each deals almost entirely with adjective law. The first of these Acts consists of 392 sections, together with long schedules, and lays down a code of criminal procedure and the rules of evidence in criminal cases for all courts of law, whether superior or inferior. It leaves the jurisdiction of all Courts untouched. The other Act above-named constitutes a class of inferior Courts, prescribes the extent of their jurisdiction in civil and in criminal matters and lays down a code of procedure for the exercise of their civil jurisdiction.

It may first be convenient to mention, in connection with the Criminal Procedure and Evidence Act, that the criminal jurisdiction of the *superior* courts is derived in the Cape from the Charter of Justice which was granted by the Crown in 1832 and in the Transvaal and Orange Free State from the Administration of Justice, Proclamation or Ordinances issued by the Crown immediately after the annexation. Similar legislation existed in early days of Natal and was consolidated in 1896. The operation of these enactments was continued by the Act of Union. The criminal jurisdiction of the *inferior* Courts has, of course, in each province been derived from the statutes which constituted those Courts. The most important of those Courts are the magistrates' Courts (to which a fuller reference will be presently made) but other inferior Courts such as Courts of native commissioners and Courts of special justice of the peace exist in some provinces.

The *substantive criminal law* administered by all these Courts is the Roman-Dutch common law, as modified or added to from time to time by statute in each colony prior to Union. The *procedure* has been prescribed by statutes, or to some extent by rules of court made under the authority of statute, and these have been based mainly on the procedure of Criminal Courts in England during the nineteenth century, subject to certain departures to which reference will be made later. Ordinance 40 of 1828 of Cape Colony was the earliest of these statutes, and, with the amendments made to it from time to time, has been the precedent of the criminal procedure laws of the other South African colonies. As soon as possible after settled conditions were restored after the South African War in the annexed territories, the respective Crown Colony administrations thereof proceeded to enact criminal procedure ordinances. The more complete and exhaustive of the two was Ordinance 1 of 1903 of the Transvaal. At the same time, the rules of evidence in civil and

criminal cases were in each of the new colonies incorporated in separate statutes. Ordinance 1 of 1903 and the Law of Evidence Proclamation 1902 (both of the Transvaal) have been made, as regards arrangement of clauses and phraseology, the basis of the Union Act now under review. A few words as to the system of trial by jury in criminal cases may be of interest before commencing a review of the Act. The Cape Charter of Justice in 1830 provided that the trials of crimes before superior Courts should be before a judge and a jury of *nine* men. It is not known why this particular number rather than twelve was chosen, especially as the functions of the jury and the procedure at such trials followed closely those criminal cases in England. Possibly the fact that the European population was at the time few and scattered over wide areas was a reason for fixing a smaller number than twelve. But the number then fixed has been retained. It was adopted in Natal and later, by both the Dutch Republics, and finally was adopted in the enactments of the annexed colonies just referred to. Till recently, a unanimous verdict was always required, except in Natal, where a majority verdict of at least six to three was permissible as far back as 1857 (altered subsequently in 1871 to seven to two). In 1909, the year before Union, the Transvaal adopted this Natal provision.

At different times in South Africa an inroad has been made on the jury system by the creation of special Criminal Courts of two or three judges sitting without a jury. In the Cape such Courts were at one time constituted for the Transkeian native territories and for the purpose of trying illicit diamond dealing cases, at Kimberley. In each case, however, they were soon abolished, and reversion to the jury system took place. But in Natal there has existed since 1898 a Court called the Natal Native High Court of three judges for the trial of serious offences when the accused are natives. This Court has now exclusive jurisdiction in respect of native criminals even in capital cases.

In 1914 the Union Parliament made a further inroad on the jury system by providing for the constitution by the Government of a special Criminal Court *ad hoc* for the trial of any persons charged with treason, sedition, public violence, or an offence arising out of an industrial dispute, whenever the Attorney-General reports that the ends of justice are likely to be defeated if the case is tried by a jury. Use was made of this provision in the trial of the leaders implicated in the rebellion of 1915, and also of persons charged during the same year with the acts of public violence known as the anti-German riots which occurred after the sinking of the *Lusitania*.

It has already been stated that the criminal procedure and practice of South Africa has been based on that of the English Courts during the nineteenth century. Mention may be made, however, of certain differences. In South Africa the direct control of all prosecu-

tions has always been vested in the Attorney-General, who, until Union, was a member of the Government. Since Union such control is vested in each province in a permanent official bearing the same title but not subject in any way to orders or instructions from any member of the Government. Secondly, in South Africa the initiation and control of prosecutions have always been very much centralised. The initiation of prosecutions by private individuals or by local authorities has been allowed only in exceptional cases. It has followed, therefore, that the expense of almost all criminal prosecutions is borne by the central Government. Inasmuch as the right and duty of prosecution in any province is vested in each provincial Attorney-General, that officer gives considerable personal attention to all serious criminal cases and acts, in the various inferior Courts, whether in the preliminary investigation of serious crime or in the trial of petty offences, through Government officials appointed at the several magisterial centres and known as public prosecutors.

It follows from this that the grand jury has never existed in South Africa, and the principle has never been accepted that each particular locality is responsible for bringing its own offenders to justice. The Attorney-General presents all indictments in superior Courts and prosecutes them, sometimes in person where the Court is sitting at the place where his office is situate, but otherwise conducts them through an advocate deputed by him. Over prosecutions in inferior Courts the Attorney-General, as indicated above, exercises a general statutory control and may initiate, continue and withdraw them.

The private individual has no right of prosecution unless he can show a substantial and direct interest based on his relationship to the complainant or on an injury to himself, and even then only if the Attorney-General has considered the facts and has issued a certificate that he declines to prosecute. Later, legislation relating to municipal corporations has conferred on these local authorities the right to prosecute contraventions of the statutes specially governing them and breaches of their bylaws.

The new Act introduces hardly any change—certainly no important change—in the principles of the criminal procedure and evidence laws outlined above and comparatively few changes in matters of detail. These changes, such as they are, may be summarised as follows:

1. The local public prosecutors for the first time receive statutory recognition (s. 13). At their respective centres where magistrates' courts are situated, they are, as representatives of the Attorney-General but subject to his instructions, charged with the duty of prosecuting in these Courts in the name of the King.

They will also (ss. 58 and 60) initiate and conduct those preliminary investigations (called preparatory examinations) into the commission of

offences which are of too serious a nature to be dealt with under the ordinary summary jurisdiction of magistrates' Courts. These investigations are presided over by magistrates, who, to the exclusion of justices of the peace or other officers, have the right to commit accused persons for trial before a superior Court. When so acting the magistrate transmits the records for the consideration of the Attorney-General. The latter, then (s. 90) has to determine whether he will present an indictment in a superior Court or remit the case for trial before the magistrates' Court or enter a *nolle prosequi*.

2. When a magistrate presiding over a preparatory examination is satisfied that the accused is incapable of understanding the proceedings, he may remand him for a limited period into special custody and care for purposes of observation (s. 51). Such order of remand may be renewed from time to time for limited periods.

3. Hitherto at the conclusion of a preparatory examination (which is conducted in public) it has been permissible to ask an accused person, who has been previously convicted, whether or not he admits that fact. If he admitted it, his admission was recorded on the records sent to the Attorney-General for consideration. There were two obvious objections to this procedure. The magistrate, if the case were remitted to him by the Attorney-General, may subconsciously be influenced by his knowledge of the admission in arriving at his verdict. If, on the other hand, the Attorney-General presented an indictment before a superior Court, the fact of the accused's admission was likely to have become a matter of public knowledge—knowledge which members of the jury about to try the accused may have acquired. By s. 76 these admissions are no longer to be publicly made, and the question is only to be asked of the accused after the Attorney-General has intimated that he intends to present an indictment. It may be mentioned here that the English practice of charging a previous conviction in an indictment does not exist in South Africa. It is always possible, therefore, to permit a jury to have before it the printed copy of the indictment which is being tried before it.

4. S. 83 (*d*) enables a magistrate presiding over a preparatory examination, if the offence charged turns out to be of a trivial nature and both the prosecutor and the accused consent, to change the examination into a summary trial and use as evidence the depositions already taken by him. This provision was enacted for the Cape in 1909; it has enabled considerable unnecessary expense to be saved; while it tends to ensure the trial of an accused person expeditiously but without in any way prejudicing him or the interests of justice. It may be mentioned here that an accused person obtains bail as of right after committal for trial, except in capital charges, when it is only allowed after application to a judge of a superior Court.

5. S. 90 of the Act defines more clearly than hitherto the powers of the Attorney-General on consideration by him of the records of preparatory examination. He may, if he declines to prosecute, discharge the accused forthwith, or, if he decides to prosecute, he may either indict the accused before a superior Court or remit the case to the magistrates' Court, and in so doing limit that Court's jurisdiction as to punishment to the imposition of a sentence corresponding with such Court's ordinary jurisdiction, or he may extend it to the severer sentences allowed by the magistrates' Court's law in remitted cases. The Attorney-General may further, notwithstanding that the accused may have been discharged after a preparatory examination, direct his re-arrest if the records indicate that an offence has been committed, or he may send the case back to the magistrate with instructions to take further evidence in any particular matter. In giving any instructions to a magistrate under this section, the Attorney-General must state specifically the particular powers which he is exercising.

6. A magistrate may, under s. 96, at the request of the local public prosecutor, hold an investigation into any alleged crime, notwithstanding that a particular person is not yet charged with having committed it. The provision which already existed in Natal has been found useful to enable testimony to be recorded for future use. Testimony so recorded is, of course, inadmissible merely as a deposition against a person subsequently accused of the crime.

7. Ss. 121 to 124 embody the existing practice of magistrates' Courts as to the lodging of charges in such and any other inferior Court, and as to the manner in which the attendance of Court of accused persons who are not under arrest may be secured in petty cases. It is a practice which has not hitherto had statutory recognition.

8. S. 127 (2) adopts the provisions in almost identical language of the English Summary Jurisdiction Act, 1879, under which, when a statutory offence is charged, an exemption, exception, proviso or qualification need not be set forth or negatived in the charge, or by evidence given by the prosecution. Some judicial decisions of the South African Courts had left this matter in some doubt.

9. In s. 165 the principle of the majority verdict of a jury referred to earlier in this review has been adopted for the whole Union. The number of jurors who must be agreed on the verdict must (as has been the case in Natal and the Transvaal) be at least seven of the nine.

10. The provisions of the Act of 1914 referred to earlier in this review for the constitution of special Criminal Courts have been repealed, but re-enacted with some slight modifications. Offences arising out of industrial disputes are no longer included in the list of offences for the trial of which such a Court may be specially constituted. On the other hand, illicit gold dealing, illicit diamond dealing and illicit liquor selling

—offences in which it is often difficult to prevent a miscarriage of justice when the trial is before a jury, have been added to that list.

11. On the other hand, there has been included in the Act a provision whereby an accused person indicted for trial before a judge and jury may claim to be tried before a judge without a jury,[1] the judge being empowered, if in his discretion he thinks fit, to summon to his assistance two assessors of magisterial rank to consult with him on questions of fact arising on the trial. It is possible that this clause may meet the objections of some who have urged, rightly or wrongly, that natives charged with offences of violence or sexual offences against Europeans do not always meet with a fair trial from juries composed in practice entirely of Europeans. In this connection attention may be drawn to the fact that, while there is no specific colour bar in the qualifications or disqualifications of jurors s. 167, by prescribing as a qualification the possession of the parliamentary franchise *plus* ownership or occupation of land of a certain value, has rendered it certain that jurors are taken solely from the European population.

The position of the Natal Native High Court, as described earlier in this report, has been left untouched, pending legislation which is contemplated to give effect to the Government's native policy in non-judicial as well as in judicial matters. In the meantime this Court is regarded as a superior Court for the purposes of this Act.

12. It will no longer, under the Act, be in the absolute discretion of the Attorney-General to deprive persons charged with offences, for which twelve months is regarded as the probable maximum of punishment, of the right to be tried by a superior Court, *i.e.* to say generally of a trial by jury. In exercising his powers of remittal to a magistrates' Court the Attorney-General, as hitherto he has been able to do in all cases except capital cases, might have deprived persons of this right by conferring on the magistrate an increased jurisdiction to sentence to imprisonment up to twelve months. But in s. 229 the new Act provides that, when a case is so remitted and the accused has not pleaded guilty, he may demand a trial by a superior Court.

13. Chapter XIV enacts the rules of evidence for criminal cases, and, as indicated earlier in this review, re-enacts the Transvaal Law of Evidence of 1902, but with some modifications. That law, following the principle adopted in the earlier Cape laws of evidence, had, while setting forth the general rules of the English law of evidence, expressly provided that, in cases for which no special provision was made, the rules and practice observed by the Supreme Court of Judicature in England should be followed. This has had the advantage of leaving the law of evidence in South Africa sufficiently flexible to enable subsequent decisions of English Courts to be followed. This principle has now been adopted

[1] As to the first use of this provision see *Journ. Comp. Leg.*, 3rd Series, vol. i. p. 130.

for the whole Union, the general rules of evidence being, as hitherto, set forth in the Act. The modifications to which reference has just been made may be summarised as follows:

Bigamy and incest have been specifically stated to be offences in the trial of which the husband or wife of the accused is both a competent and compellable witness for the prosecution without the consent of the accused. With a population which has in some large urban centres been largely recruited from oversea, it has often been found that the lawful wife of the accused is the only possible witness available against her bigamous husband; though the fact that he had contracted a bigamous marriage was hardly doubtful, without her evidence it was difficult to secure legal proof. For the same reasons, another section, 304, has been enacted, which, while recognising the general principle that to found a prosecution for bigamy there must first be proved the existence at the date of the offence of a lawful and binding marriage between the accused and another person, creates certain presumptions in favour of the existence of such a marriage. Among these are (*a*) extracts properly authenticated from marriage registers kept in another country—the country of the marriage; or (*b*) proof that a marriage ceremony has been solemnised between the accused and another person; or (*c*) the fact that the accused has been habitually treating and recognising the other person as his or her spouse. These are merely presumptions which it seems reasonable that the accused should have to rebut, as the real facts are peculiarly within his own knowledge.

14. Another modification of the English and South African rules of evidence is made in s. 273 in respect of confessions by an accused. In addition to the ordinary rule that the confession, to be admissible, must be known to have been freely and voluntarily made and without undue influence, it is laid down, upon an Indian precedent, that a confession made by the accused to the police must, before it is admissible in evidence against him, be confirmed in the presence of a magistrate or justice of the peace and reduced to writing.

15. The Act adopts for the whole Union, as regards proof of previous convictions after verdict, a decision of the Transvaal Courts that a previous conviction in another country may be proved equally with a previous conviction in any part of South Africa included in the Union; and, to facilitate proof of any previous convictions, whether in South Africa or elsewhere, the Act adopts the provision of the Transvaal and Free State laws whereby finger-print records, photographs, etc., produced from official police or prison sources may be used as *prima facie* evidence of the fact of such a conviction where it is denied by the accused.

16. In respect of punishments, the Act (s. 338) modifies the common law which requires the judge to pass sentence of death on a conviction of murder. The judge is now empowered to use his discretion and

pass a less severe sentence (*a*) where the convicted person is a woman convicted of the murder of her newly-born child, or (*b*) where the accused is a child under sixteen years of age.

The Act also (s. 332) prescribes a limit to the number of strokes to which even a superior Court may sentence a prisoner when whipping is ordered as a punishment. The limit fixed is fifteen, subject to the special provisions of any statute prescribing the punishment.

17. While the general rule has always been that the Crown, in a criminal prosecution, neither pays costs nor has costs awarded against it, it has also been the rule that a private prosecutor or the accused in a private prosecution may be ordered to pay costs. This general rule is adopted in the Act, but with the exception that the Court may order (s. 363 (3)) the Crown to pay the costs of a successful private prosecutor where the latter has instituted his prosecution after the Attorney-General has declined to prosecute.

18. A change in the previous law has been made in respect of criminal appeals from judgments or orders of a superior Court. There has never been in South Africa (as in England since the Act of 1908) an appeal from a verdict of a jury on questions of fact, but, as in England prior to 1908, provision has always existed for an appeal by way of arrest of judgment—special entry on the record on the ground of irregularity or a reservation of points of law for the consideration of an appellate Court. Such appeals have hitherto been heard by the provincial division of the province in which the case was tried. Under the new Act they will be heard by the appellate division of the Supreme Court, and thus uniformity and finality of decision on important matters of criminal practice is secured.

In addition, the Criminal Procedure and Evidence Act (s. 388) enables the appellate division, on the application of the Minister of Justice, to order a special case to be prepared for its consideration and argued before it whenever the decision of any superior Court in the Union is in conflict with the decision of another superior Court. Appeal from convictions and sentences of magistrates' Courts is dealt with in the Magistrates' Courts Act (No. 32) and is a matter to which reference should more appropriately be made later.

Such is the general effect of this long, consolidating and unifying Act, and such are the main changes enacted thereby. An ample power is reserved to the Courts to frame rules on points of practice not dealt with by the Act and to prescribe the necessary forms. Until such rules have been made or such forms prescribed, certain rules and forms are scheduled to the Act.

The general scope of the Magistrates' Courts Act (No. 32) has already been indicated at the commencement of the review of the Criminal Procedure and Evidence Act. The laws which the new Magistrates'

Court Act will unify were very numerous. In the Cape Province alone it was necessary to consult over thirty of such laws, from 1856 onwards. The Natal legislature consolidated its law-governing Magistrates' Courts in 1896, but in the fourteen years following the Act of that year was amended five times directly, and indirectly at many other times. After the annexation of the Transvaal and Orange Free State, magistrates' Courts were by statutes in 1902 constituted in each colony, these statutes being drawn up on lines very similar to the then existing Cape Acts. Each was amended frequently.

But, numerous as were these statutes, it cannot be said that the law governing magistrates' Courts was contained therein, for some 2,000 judicial decisions, difficult sometimes to reconcile with each other, had grown up round the statutes.

The new Act, as did its predecessors, covers not only the jurisdiction in civil and criminal proceedings of magistrates' Courts and sets out a code of procedure in civil matters, but, in dealing with the constitution of the Courts, prescribes the qualifications of those who are presiding over them.

Each colony—now a province—has always been divided into districts for administrative purposes with an officer who came to be regarded as the chief representative of the central Government, and was styled the resident magistrate.

It was natural in early days, in a sparsely populated country, if only on grounds of expense, that these administrative districts should become also units for judicial purposes and that the resident magistrates should be judicial officers. Until comparatively recent years the possession of legal qualifications was not by law required of the resident magistrate, although the practice had gradually grown up in Cape Colony of appointing to magisterial offices, as far as possible, persons who had passed law examinations. The Transvaal legislature, in 1908, was the first to prescribe the possession of such qualification by those who were to be for the future appointed magistrates. This was enacted for the whole Union in 1912 by the Public Service Act. A provision for the possession of such a qualification is re-enacted, with slight modifications in the new Act.

The next point of importance is the question of jurisdiction both civil and criminal. Civil jurisdiction has had to be considered under three aspects: (1) Jurisdiction as to persons; (2) jurisdiction as to amount; and (3) jurisdiction as to cause of action or nature of proceeding.

Criminal jurisdiction also falls under three headings: (1) Jurisdiction as to the class of crime or offence triable by a magistrates' Court; (2) jurisdiction as to the nature or extent of the penalties which such a Court may impose; and (3) jurisdiction as to the locality in which the offence was committed.

With regard to civil jurisdiction as to *persons*, the Act adopts and extends a principle which has been accepted in Natal; it confers jurisdiction over a defendant who resides or carries on business, or is employed within the district and over defendant partnerships any of whose business premises are situate within the district. The Government is regarded for this purpose as a person carrying on business within every district. With regard to civil jurisdiction *as to amount* the previous laws differed very considerably, prescribing a limit of one amount for one class of action and another for another class of action. The Act, again adopting a Natal principle, fixes a maximum amount of £200 for all classes of cases. Thus the civil jurisdiction of magistrates' Courts is raised considerably in the Cape Province and the Orange Free State, is raised to some extent in the Transvaal, but left almost as it was in Natal.

With regard to civil jurisdiction as *to cause of action* or nature of proceeding, the Act excludes from the jurisdiction of a magistrates' Court all questions of divorce or matrimonial status, questions as to the validity or interpretation of a will or other testamentary document, questions as to the mental capacity of any person, actions for specific performance with certain exceptions, and the form of action in Roman-Dutch Law in which *namptissement* (or provisional sentence) is sought. The Act specifically permits a magistrates' Court to decide upon the validity of a statutory regulation or bylaw, but excludes from such a Court decision upon the validity of a Provincial ordinance or Governor-General's proclamation. These are matters as to which there have been conflicting decisions. The Act further allows a magistrates' Court to order arrests of a person *suspectus de fuga* where the amount claimed in the action is at least £20, and to grant interdicts, and from this it follows that such a Court is allowed to punish for contempt. Again, adopting a Natal principle in preference to that adopted in other provinces the Act allows (except in the specifically excluded matters) unlimited civil jurisdiction in any case where both parties file a consent in writing.

The Act does not, however, exclude the jurisdiction of the superior Courts in any case which may be within the ordinary jurisdiction of the magistrates' Court. Further, where the amount in dispute exceeds £100, a defendant who has been sued in a magistrates' Court can claim, as of right, to have the case removed to the superior Court, subject to certain risks such defendant incurs, if he loses, of having to pay costs on a superior Court scale.

With regard to the criminal jurisdiction of magistrates' Courts, it may be stated shortly that (1) such a Court has no jurisdiction in respect of any offence in which the death penalty may be imposed. Such offences are at present: treason, murder and rape. (2) Such a Court has jurisdiction only in respect of offences committed within its district

or within two miles of the boundary thereof, or offences begun or completed within those limits. (3) Such a Court, in imposing punishment, has not ordinarily jurisdiction to pass a sentence of imprisonment exceeding six months, or of a fine exceeding £50, or of whipping exceeding fifteen strokes, even though the specific law under which the punishment is prescribed provides for a more severe punishment. But, in addition to this ordinary jurisdiction as to punishment, a magistrates' Court is given an increased jurisdiction to the extent of passing a sentence of twelve months' imprisonment or £100 fine in any case where a preparatory examination has been held, and the matter remitted to the Court by the Attorney-General for trial of that offender after considering the preparatory examination, specially confers that increased jurisdiction. While (1) and (2) represent the previous law of criminal jurisdiction in all the provinces, (3) represents a considerable increase of jurisdiction as to punishment in the Cape and Orange Free State. All these punishments are, of course, subject, in the case of statutory offences, to the special provisions of the statute creating the offence or prescribing the punishment. Other sentences of preventive detention, such as detention in a reformatory for juveniles, in an inebriate home for inebriates, and in a farm colony for other adults in certain circumstances, are also sentences which may be imposed by magistrates' Courts under the new Act. Every conviction passed, and every sentence imposed by a magistrates' Court are, however, subject to appeal, both upon questions of law and questions of fact, to the provincial or local division of the Supreme Court, which may affirm, set aside, or vary the conviction or sentence, reduce the sentence or remit the case to the Court appealed from with such instructions as to the correction of the proceedings, the taking of further evidence or otherwise as that superior Court may think fit in the interests of justice. Further, a conviction in which a sentence exceeding, in the case of a fine, £25, or in case of imprisonment exceeding three months, or a sentence to any whipping, is passed, is subjected to an automatic review by a judge of the provincial or local division, which division may act in the matter as it might act if the case were before it on appeal. This provision for review of sentences reproduces the law of the Transvaal, Cape and Free State in principle, and the law of the Transvaal in the details of the amount or character of the sentence necessitating such review.

The provisions of the Act governing procedure in civil matters (procedure in criminal matters being governed by Act 31 of 1917) have now to be considered. These provisions have been founded on the magistrates' Court law of Natal, which was the most modern of any of the provinces. These rules of procedure may be summarised as follows:

They recognise that in a magistrates' Court, as in English County Courts, the great majority of civil cases are for petty debts, and are therefore practically undefended. There being, then, no dispute of law

or fact for settlement, the chief need is a speedy and inexpensive method of enabling the creditor or plaintiff to obtain judgment.

The rules, therefore, provide, first, an order to ascertain whether a case is to be defended or undefended, that the defendant shall enter appearance within a short time, and that he shall be warned that, if he fails to enter appearance, judgment will forthwith be given against him. If he fails, judgment is given for the amount claimed without further costs being incurred by him. If he does enter appearance the further procedure necessary to bring the parties to an issue and for the conduct of a defended case are set out in full detail. A lower scale of costs is prescribed for undefended as compared with defended cases, for the simple reason that no actual appearance in Court or preparation for such is required in the former class of case.

Costs will also be lessened by enabling a judgment of a magistrates' Court to be executed when movables are insufficient to satisfy it, against immovable property, without it being necessary to seek process in aid from a superior Court, as hitherto. Such an execution is now permitted where the immovable property is not subject to any such prior claim as a mortgage bond.

With regard generally to execution of a judgment of a magistrates' court, provision is made for (*a*) the suspension of execution pending satisfaction of the judgment by payment in instalments where there is evidence that the debtor lacks means to satisfy the judgment immediately; (*b*) the garnisheeing of moneys actually due to the judgment debtor, but in the hands of third parties; (*c*) civil imprisonment, but for a maximum period of three months only, or, if the amount of the judgment debt is less than £5, for fourteen days only. But civil imprisonment may be ordered, not only if the debtor can pay and will not pay, but also if he has made away with property in order to defeat the claim of the judgment creditor. The costs of court imprisonment and the maintenance of the debtor in prison, which hitherto have fallen on the creditor, are now left to the discretion of the Court.

The only other point of substance to which reference need be made in respect of this Act is that of appeals in civil matters. An appeal lies to the Provincial division from every judgment, from every order, having the effect of a final and definitive sentence (including an order as to costs), and from any decision overruling an exception when the parties consent to the appeal before proceeding further in the action. The appeal may be on a question of fact or of law, or both. The appellate Court has jurisdiction on such appeal similar or analogous to its jurisdiction in criminal appeals. But an appeal may be excluded by both parties, before judgment is given, agreeing in writing to accept the magistrates' Court judgment as final. A respondent may abandon a judgment against which an appeal is lodged, and thus save further expense if he

is advised that the view taken by the magistrates' Court in his favour is unlikely to be upheld in a superior Court.

Among the minor points in the Act which are of interest are (1) a provision whereby a magistrate, in hearing civil cases, may call to his assistance as assessors two persons of skill and experience in any particular matter in issue to sit with him and advise him ; (2) the establishment of a central registry of judgments which is both a convenience to the commercial community and is at the same time a reasonable precaution against the destruction of court records by fire or other accident; (3) the recognition of the appearance of advocates in defended cases by the allowance on taxation of costs, of maximum advocate's fees. The employment of counsel, in magistrates' court cases, undoubtedly tends to improve the administration of justice without necessarily adding to the cost of litigation ; for experience has proved that time is economised in the hearing and the number of appeals is reduced.

This completes a general outline of the provisions of an Act which may have considerable effect in lessening the cost of litigation in the Union by extending the jurisdiction of lower Courts and by prescribing a very definite tariff of costs and fees in respect of every step taken in the proceedings and every document tendered, filed or used in such Courts.

Export of Agricultural Produce.—The only other Act which can be said to fall under the head of unifying or administrative legislation is one of a very different nature from the two last reviewed. It is the Agricultural Produce Export Act (No. 35). It enables the Government, by means of inspections and grading, and by insisting on special methods of packing and conveyance, to regulate the export oversea of every form of agricultural produce except wool, skins, hides, ostrich feathers and fresh fruit. The object of the Act is, of course, to enable better and more certain markets oversea to be acquired by the agricultural producers of the Union. Such markets can only be acquired when oversea customers are satisfied with guarantees of quality—guarantees to which official marks and brands testify. The effective operation of the Act as regards maize, meat, butter, eggs or any other class of agricultural produce necessarily depends on the framing of suitable regulations made under s. 6.

Financial Legislation.—The Union Acts of 1917 falling under this class have now to be considered. The first is the Financial Relations Act Extension Act (No. 9). The financial relations which exist between the Union Government and the four Provincial Administrations—relations which s. 118 of the Act of Union indicated were to be a matter of future legislation based on the report of a commission—are determined by Act No. 10 of 1913. But when that Act was passed its operation was limited to a period of four years from April 1, 1913, as it was felt that its provision might need revision at the expiry of that period. In

1913 the Government undertook that the whole question of the continued existence of the Provincial administrations in their present form should be the subject of further inquiry, and that such inquiry should have regard to the possibility of introducing a more economical system of administration of local affairs, and of eliminating the Provincial boundaries and other Provincial distinctions. Such a commission of inquiry was in due course held and presented its report. Whether the recommendations contained in the majority report will eventually be accepted it is impossible to foretell, but inasmuch as the present constitution of the Union Senate is entrenched by the Act of Union until May 31, 1920, and the continued existence of Provincial councils is necessary to preserve that constitution, no abolition or serious modification of the position of Provincial councils, and therefore of the Provincial administration system, is possible before that date. It was necessary, therefore, in continuing this system, to continue the relations prescribed by Act 10 of 1913 for determining the financial relations between the Government and the Provinces. The Act of 1913 has therefore been extended until March 31, 1920, and, in extending it, Parliament has made a few minor amendments and modifications of it. Among these are further legislative powers in respect of the regulation, licensing and control of places of amusement, and of the imposition of special taxation on the licensees in order that additional Provincial revenue may be obtained.

The next Act for consideration is the General Loans Consolidation and Amendment Act (No. 22). In the first session of the Union Parliament after the establishment of Union, an Act (No. 17 of 1911) was passed, declaring the terms and conditions under which loans might be raised, or borrowing in any other form might take place by the Union Government. That Act included provision for the issue of local stock in the Union and of consolidated stock in the United Kingdom, and, when the market was not favourable, for the issue of Treasury bills. That Act only permitted such borrowing when parliamentary authority had been obtained, either generally or specially, to raise a loan. Simultaneously another Act was passed (No. 25 of 1911) which not only authorised the raising of a specific amount of money, but also provided for the consolidation of the floating debts of the colonies which had then recently entered the Union. That other Act also empowered the Government, in anticipation of the raising of the specific sum authorised, to borrow £2,000,000 in any manner and repay that sum out of the loan when raised. Both these Acts were amended in 1914, 1915 and 1916. The two latter amendments were due to the special financial conditions brought about by the war and the cost to the Union of its share in the military operations undertaken by it. The limitation of £2,000,000 referred to above was removed both for the years 1915 and 1916. In

1916 another Act was passed to enable the Government, in issuing local stock, to issue it at a fixed price and as registered stock. This had not been permissible under Act 17 of 1911. The new Act under review consolidates all these Acts, but in re-enacting the provisions thereof introduces certain amendments. These amendments may be summarised as follows:

1. S. 2 endows the Government with certain standing borrowing powers, in addition to any such borrowing powers as it may possess under any loan appropriation or part appropriation Act. The previous provision whereby the Government's borrowing powers were limited to the amount required (exclusive of credits standing or accruing to loan account) had proved a frequent source of embarrassment when money had to be found for the expenditure authorised by a loan appropriation Act, while the system of accepting moneys offered by the public from time to time against Treasury bills had necessitated the keeping in hand of a large balance to repay such bills, as and when they matured, such balance being kept to no purpose where the holders of the bills desired to renew them. During 1916 Treasury bills matured at the rate of £600,000 per month during three consecutive months. Further, the Government, when it had no reserve of borrowing powers, was unable to seize any favourable opportunity which might present itself to issue a loan in anticipation of future requirements. £3,000,000 is the limit fixed in the new Act for such reserve or standing borrowing powers.

2. S. 3 enables certain receipts to be allocated to loan account and thus enables also certain revenues to be earmarked for the construction of works of a permanent nature. It has always been a Treasury practice —though one not required by statute—that moneys received from the sale of Crown lands or from the repayment of loans made by Government or from the realisation of assets originally purchased out of loan funds, should be credited to the loan account. A Cape Act of 1895 had provided that the proceeds of the sale of Crown lands should be applied in reduction of the public debt, while in the Transvaal half the share of the Crown in the diamond mines was made so applicable by an Ordinance of 1903. These provisions are now repealed as being in conflict with the new Act; the old Transvaal provision being also unnecessary owing to the Transvaal loans, guaranteed by the Imperial Government, being repayable under a statutory sinking fund. The loan fund under the new Act will, in addition to being credited with the three classes of revenue just mentioned, also obtain the revenue from the remunerative mining leases issued by the Government under the mineral law of the Transvaal, including the leases of Bewaarplaatsen, to which reference will presently be made.

3. Under s. 8 the Treasury is relieved of the responsibility placed

upon it by Act 17 of 1911, of seeing that trust moneys which are represented by holdings of Union stock, debentures or Treasury bills and the interest thereon are applied in accordance with the terms of the trust. The clause in the 1911 Act which had been taken almost *verbatim* from an English Act had prohibited the Treasury from entering on its registers, or being affected in any way by notice of any trust. The common law of South Africa in this matter is so different from the law administered by, and the practice of, the English Courts that the clause in the 1911 Act had been found inapplicable and unsuitable to Union conditions. As there was no valid objection to registration of stock-holdings in the names of trustees, it seemed not reasonable to throw on the Treasury the obligation of seeing that the trustees fulfilled their trust in respect of such holdings.

4. Ss. 10 and 11 enable Government debentures and Treasury bills to be issued elsewhere than in the Union and the United Kingdom, to which the previous laws had confined such issues.

5. S. 13 gives effect to a recommendation of the Select Committee on Public Accounts by allocating the cost of raising loans either to loan account or revenue account according as the period of the loan is greater or less than five years.

6. S. 14 removes a doubt which had been suggested as to the Government's powers to repay Union loans without further appropriation, and as to its right with fresh borrowing powers to issue securities to effect such repayment. As regards pre-Union loans, the repayment thereof was, in the case of the Transvaal and Orange Free State, provided for by sinking funds established under the statutes under which the loans were raised; while other special provision for repayment existed under the pre-Union laws of the other two provisions. These powers of repayment of pre-Union loans, the Union Government inherited under s. 124 of the Act of Union. There was obviously no justification for withholding from the Government similar powers in respect of the repayment of post-Union loans.

The Bewaarplaatsen Moneys Application Act (No. 24) settles a matter which at different times in the history of the Transvaal has given rise to much public controversy. This question had its origin in the prohibition contained in the Republican Gold Laws from 1885 down to 1898 against prospecting and digging in certain localities, such as towns, villages, under public squares and streets, cemeteries, railways and storage sites. The Dutch word *bewaarplaats* means a storage site, but the term subsequently in popular parlance came to be regarded as including every class of place on or under which the public was prohibited from prospecting or digging. As the possibilities of deep-level mining became recognised in the early "nineties," the question of removing the prohibition arose. The late Republican Gold Laws enabled the

Government to grant the right to mine underneath places of this class subject to certain conditions. One of the most important of these conditions was that half of the proceeds of the mining should go to the Government and the remainder to the owner of the land. As often, however, as these provisions were enacted their operation was suspended. In 1908 the late Transvaal Parliament enacted an entirely new Gold Law (No. 35 of 1908) and cut the Gordian knot of the Bewaarplaatsen question by specifically vesting in the Crown the right to mine under the places known as *bewaarplaatsen* (s. 52). A further provision of that Act empowered the Crown to lease or otherwise dispose of the right thus vested in it. It was recognised, however, that the Republican legislation had created certain expectations amounting almost to equitable claims by those who had been owners or had acquired the contingent rights of owners in respect of the proceeds of mining under *bewaarplaatsen*. The Act of 1908, therefore, proceeded to enact that, as regards *bewaarplaatsen* which existed before that Act came into operation, the proceeds of any mining thereunder should be set aside in a special account pending the discretion of Parliament. A commission was then appointed to investigate the question of the allocation of those proceeds. That commission recommended that the only class of persons who were entitled to receive any portion of those proceeds were the registered owners, and that they should receive one half. No action was taken on this report till 1917, though a bill was prepared some years before for giving effect to these recommendations.

Under the Act now reviewed the *bewaarplaats* moneys will be applied on principles recommended by the Commission, and in proportions not very different from those suggested in their recommendations. As regards moneys which have been received from *bewaarplaatsen* from 1909 till the date of the Act the surface owner will receive nineteen-fortieths, the extra one-fortieth being retained by the Government to cover the costs incurred in administration and in preparation of surveys and leases. As regards moneys received from these *bewaarplaatsen* after the Act came into operation an extra one-fortieth is retained by the Government for the same purposes, the surface owner being recognised as entitled to eighteen-fortieths. But in the case of the former the owner will not receive his *nineteen-fortieths* in cash, but there will be issued to him Union 5 per cent. local stock free of income-tax and super-tax. In the other case the owner's share will be paid in a similar manner for the duration of the war and twelve months thereafter if the Government so determines. After that time such owner will receive his eighteen-fortieth share in cash. Issues of local stock under these provisions will *pro tanto* be regarded as an exercise of the Government's borrowing powers referred to earlier in reviewing Act 22 of 1917, while the Government's share of the *bewaarplaats* moneys will be credited

to the loan account of the Union in contradistinction to revenue account. The Act, therefore, in two ways furnishes the Government with loan moneys for expenditure on permanent works and on war purposes. These provisions have been stated in some detail as the financial results thereof are not inconsiderable. Over £1,000,000 was received from existing leases of *bewaarplaats* up to March 31, 1917. Of this amount the Government's share, after administration and other expenses have been met, will be nearer £600,000 than £500,000. By similar calculations it is estimated that a further £90,000 will accrue to the Government under the Act for the year ending March 31, 1918, and this amount will increase year by year as a permanent source of loan funds in addition to that part which, as owner's share, will be lent to the Government as long as the war lasts.

The Diamond Export Duty Act (No. 27) is one of the three taxation measures of 1917, the other two being the Customs and Excise Duties Act and the Income-tax Act. The Act repeals a measure bearing the same short title and passed in 1916, under which a graduated rate of duty (ranging from ½ per cent. to 5 per cent.) on diamonds exported from the Union was imposed where the percentage or profits exceeded 35 per cent. The application of the Act of 1916 was, however, limited to profits made during the three years preceding August 4, 1914. The effect of this was that only one producer—the de Beers Consolidated Mines—was *immediately* affected by the imposition of the duty. Owing to the unequal incidence of the taxation imposed by this measure the new Act was passed. Under it a flat rate of duty at 5 per cent. is imposed and is payable by the exporter. This duty, which falls with equal incidence on all diamond-mining companies, is based on the selling price or true market price of the diamonds within the Union at the date of their export. Registration is made a condition precedent to export, and, with the registration, full particulars must be furnished as to the place of origin, as to the value of the diamonds, and as to the producer, the exporter and the person to whom they are to be exported. A provision of the 1916 Act is re-enacted whereby, during the war, parcels of diamonds can only be registered for export at Kimberley and Johannesburg, and then only through the post and to an address in London. The reasons for this last-mentioned provision are obvious.

The Customs and Excise Duties Act (No. 36) reimposes for one year only (subject to reductions on certain necessaries such as coffee, tea and mineral oils), the increased customs and excise duties added to the consolidated 1914 tariff, by an Act of 1915, and re-enacted again in 1916. The Act also amends the excise laws by enabling a rebate of excise duty to be made under certain conditions on spirits used in the manufacture of motor fuel. The manufacture of this fuel from a combination of alcohol (obtained from molasses in Natal) and ether, will, it is hoped,

become a local industry. With that end in view, it seemed desirable to remove difficulties which would have made the initial costs of production prohibitive.

The Income-tax Act (No. 41) is the taxation measure on which most reliance has been placed to assist in meeting the estimated deficit for the financial year 1917–18. This Act reimposes an income-tax and a super-tax at the same rate as in the two previous years. That, as regards income-tax, has been a graduated rate varying from 1 per cent. to 10 per cent. of income, annual incomes of £300 or less having been exempted. The super-tax has been at a graduated rate, varying from 5 per cent. to 15 per cent. of an income which exceeded £2,500 a year, and which was received by individuals as distinct from companies, corporations or other artificial persons.

In addition, mining companies which have not hitherto been required to pay income-tax, but have since 1902 in the Transvaal, and since 1910 in other parts of the Union, been subjected to a tax of 10 per cent. on the profits of mining, are now brought under the Income-tax Act, the previous Mining Taxation Acts being repealed. The mining companies are still, as they were under the last mentioned Acts, allowed special deductions for amortisation of capital expenditure, a privilege based on the fact that the assets of mining companies are necessarily of a wasting nature. The Transvaal Gold Mining Companies are also nominally relieved from payment of the Special War Levy of 5 per cent. on profits—a levy which was made in 1915 and 1916; they will, however, pay this levy in another form, as will be indicated presently in referring to the dividend tax.

The new Act also sets up permanent machinery for the collection of the taxation imposed by it, though the actual rates of tax are left to be fixed annually by Parliament.

In addition to the imposition of the previous income-tax and super-tax, a dividend tax and an excess profits duty are imposed by the Act. The dividend tax, provision for which is made in Chapter III. is not expressed to be an annual tax; while the excess profits duty, provision for which is made in Chapter IV., will endure for the remainder of the present war and for six months thereafter. That duty will be collected annually, but the proceeds will be paid into loan account and appropriated for meeting war expenditure.

The dividend tax is a tax payable by any company declaring or distributing a dividend. "Dividend," in addition to bearing its ordinary meaning, is defined as including (*a*) interest in excess of 6 per cent. per annum on debentures or debenture stock; (*b*) undistributed profits which have been invested outside the company's business or appropriated in redemption of its capital liabilities or reduction of its assets or profits which have been allowed to accumulate beyond the reasonable

needs of the business; and (*c*) any sum distributed amongst directors in excess of their usual remuneration.

The rates of "dividend tax" are 1*s*. in the pound in the case of companies whose principal business is neither gold-mining nor diamond mining. In addition, a further sixpence in the pound is payable by gold-mining companies as a temporary war tax until six months after the termination of the war. The dividend tax, by whatsoever company payable, was made payable in respect of the period ending June 30, 1917. The company is made liable for its payment but is given a right to deduct the amounts paid from individual share-holders.

The rate of excess profits duty is 25 per cent. upon the excess of profits made by any person or company from any trade or business (with certain exemptions which will be presently indicated) for the year ending June 30, 1917, or any subsequent taxable period. The excess is tested by the profits made during the year ending June 30, 1914. The excess profits, as thus ascertained, are, however, subject to an abatement of £500 per annum. While this chapter of the Act was based on similar provisions existing in the United Kingdom, it contains certain provisions which are necessary owing to special South African conditions. These are the definition of "pre-war standard" (s. 56); a method for determining excess profits (s. 52), a method of calculating profits upon investment (s. 53); and arrangements for making adjustments and refunds of duty overpaid.

The profits which are exempted from assessment to excess profits duty (exemptions referred to above) are (1) the profits of gold-mining; (2) the profits of life assurance companies; and (5) interest derived from Union Government securities. The following further deductions may also be made. Amounts representing (*a*) debenture interest; (*b*) excess profits duty levied in other countries; and (*c*) such deductions as are permissible in the assessment of ordinary income-tax.

The Financial Adjustments Act (No. 42) is an "omnibus" measure, but one entirely relating to financial matters and public revenue and expenditure. It legalises certain specified departures from the strict observance of certain statutes which regulate public expenditure—a departure which has been inevitable in these abnormal times; and it is designed to overcome certain administrative difficulties which have been experienced in adapting the provisions of certain pre-Union laws or laws passed immediately after Union to present-day conditions. A review of each or any particular clause, being not other than of local interest is unnecessary.

Two short Acts dealing with certain irrigation works may be mentioned under this heading, viz. the Irrigation Works (Special Loans) Act (No. 18), and the Oliphants River Irrigation Works Act (No. 28). They are mentioned in this review and are referred to under the heading

Financial Legislation, because each of them provides for advances of considerable sums of public money towards large schemes for the conservation of water. These schemes are co-operative in nature, and immediately under the control of local boards representing the communities which will benefit by them. But they were recommended by the Government irrigation engineers by whom the construction and management of the works will be supervised. These schemes mark the attainment of another stage in the development of irrigation in South Africa, a stage the approach to which has possibly been hastened by such contradictory or varying causes as abnormal drought, abnormal flood, the collapse of the feather market, and the expected excellent market for those staple crops which were regarded formerly as unprofitable when grown under irrigation. In early days of irrigation in South Africa, the cost of storage works was prohibitive, and such irrigation as has been carried on has been through the diversion of water from public streams without its being first stored. The difference between the two Acts is that, under Act 28, the Government has itself taken over a partly completed work for the contruction of which it had previously provided financial assistance, and will carry it on as a Government work; the irrigation board, however, continues to exist, but is subject to increased Government control.

Thirteen appropriation Acts complete the financial legislation of the year.

Special War Legislation.—Only two measures can be said to fall directly under this head: the Public Welfare and Moratorium Amendment Act (No. 37) and the War Special Pensions Act (No. 43).

As regards the former, it may be mentioned that, immediately after the outbreak of the war, an Act was passed (1) to confer special administrative powers upon the Government to deal by administrative action with political and economic circumstances that seemed likely to arise from the outbreak, and (2) to confer peculiar privileges on debtors whose financial circumstances were detrimentally affected by the state of war. Included in (1) was a power to fix the prices of foodstuffs and necessaries, and the power to prohibit, regulate, and restrict the *export* of any class of goods. Included in (2), in addition to the ordinary moratorium, was a provision by which all civil legal remedies against any member of the defence forces or of any of His Majesty's Forces were suspended while he was on active service, and for three months after the termination of such service.

It has been found necessary in the new Act to extend the first mentioned principle to the prohibition, restriction and regulation of *imports*, and this is due to well-known causes which have affected every country in connection with both shipping and with the shortage of certain materials. The export of such materials from the United Kingdom is

only permitted in limited quantities and upon certificates of special recommendation.

It has also been found necessary to restrict the absolute immunity from civil proceedings of men on active service. Not only was that immunity abused, but its effect was also detrimental to those whom it was intended to benefit; for neither they nor their dependents were able to obtain credit for necessaries or secure accommodation from landlords or boarding-house keepers. The new Act excludes from this immunity those who are on active service *in the Union*, when proceedings are brought in respect of rent and necessaries of life supplied to themselves and their dependents. Even in other cases a superior Court may, under the Act, allow legal remedies to be enforced where such a Court is satisfied that enlistment on active service was for the express purpose of defeating the claims of creditors.

In some other respects privileges given to men on active service are extended. For example, a person on such service outside the Union is given an additional period within which to renew licences for mining claims, and is granted a remission of licence moneys in respect of such claims; he may also be granted an extension of time to do any such act as under the patents, designs, trademarks or copyright law must be done within a specific time.

Provision is also made for "presumption of death" in the case of persons who have for some time been officially posted as "missing" and have not rejoined—a provision which was obviously desirable to enable estates to be administered without a special application to the Court being made with uncertain result.

The War Special Pensions Act (No. 43) repeals No. 29 of 1916, and re-enacts it with considerable modifications designed to enable pensions on a more generous scale to be given to those members of Union contingents who have been permanently incapacitated from wounds or sickness while on active service, and the dependents of those who have been killed or have died on such service. The general effect of the Act is that beneficiaries will have the option of receiving from Union funds awards based on the scales and conditions of the Royal Warrant if the pension that would be otherwise payable to them is of less value to them. In addition, the Government is granted a discretion to supplement, within certain limits, Union war pensions as well as pensions payable out of Imperial funds, when such prove inadequate.

Miscellaneous Legislation.—Among the Acts which fall under this category are (1) The Banks Act (No. 7) to provide the forms and contents of the periodical returns which must be lodged with the Government by banking companies carrying on business in the Union and to legalise also the issue by banking companies of notes of denomination of 10. (2) The Cape Superior Courts Further Provision Act (No. 10)

to enable the superior Courts in the Cape Province, so that judicial work may be expedited, to sit in more than three divisions, *i.e.* to sit in as many divisions as there are judges available to preside; and to enable official shorthand notes, before transcription, to form part of the Court records. (3) The Workmens' Compensation (Industrial Diseases) Act (No. 13), a useful measure introduced and piloted by private members through both Houses, and extending the operation of the Workmen's Compensation to certain "occupation diseases" such as lead poisoning, mercury poisoning and cyanide rash. The mode of assessing and recovering the compensation payable is based upon s. 8 of the English Act of 1906. (4) The Land Settlement Act Amendment Act (No. 23), as its short title implies, amends the law under which Crown land is allotted to agricultural settlers and assistance given to them by Government to enable them to stock their settlements. The amendments are mainly in the direction of prescribing more encouraging conditions of title and less onerous terms of assistance. (5) The Railways and Harbours Service Act Amendment and Further Provision Act (No. 33) removes certain anomalies in the conditions of service and pensionable privileges affecting the Government railway and harbour servants, and in addition enables special relief to be given to those who have been on active service or engaged in munition work during the war. (6) The Miners' Phthisis Act Amendment Act (No. 44) confers further pecuniary benefits upon those miners on the Witwatersrand gold-fields who are found to be suffering from silicosis of the lungs and upon the dependents of those who have died of such disease.

2. CAPE OF GOOD HOPE.

[*Contributed by* G. M. Swift, Esq.]

Ordinances passed—25.

Cinematograph Films.—No. 21 provides for the examination of all cinematograph films by a Board of Inspectors appointed under the Ordinance, and prohibits the public exhibition of any film not duly approved.

Divisional Councils.—Ordinance No. 13 is a consolidating measure comprising some 350 clauses, and possibly the most important legislative enactment passed by the Provincial Council since its inception. Divisional Councils, which exist only in the Cape Province, were originally merely Road Boards, and the care of roads still remains their principal function. In course of time, however, various other duties, notably in connection with public health, have been imposed upon them, and the object of the Ordinance is to consolidate and bring up to date the various Acts of the former Cape Parliament dealing with the subject. The most important change in policy embodied in the Ordinance

is that permitting a Council to claim subsidy from the Government on the £ for £ principle to meet expenditure on roads instead, as formerly, of throwing the whole of such expenditure upon local rates.

Education.—Several Ordinances merit attention. No. 23 provides for the grading of all schools and teachers under School Boards, fixes scales of salaries for teachers, makes provision as to the conditions of service and leave of absence of teachers and establishes a Pension Fund.

No. 15 makes provision for the payment by Government of the school fees of children of persons on active service and of persons killed or permanently disabled while on active service.

No. 7 provides for the compulsory attendance at school of all European children over seven and under fifteen years of age unless engaged in a regular occupation after passing the fifth standard. Prior to the passing of this Ordinance attendance at school had only been compulsory under regulations framed by individual School Boards.

No. 11 provides for the maintenance of boarding-houses for European Indigent Children of school-going age, who, through poverty and distance from school, were not receiving any education.

No. 20 provides for the medical inspection of pupils and teachers in School Board Schools.

Municipal.—Under this head, No. 23 (Drainage Ordinance) is the most important, and makes elaborate and detailed provision regarding drainage and sewerage works within municipal areas.

No. 18 places the Municipality of Grahamstown and No. 19 the Municipality of Uitenhage under the provisions of the general municipal law subject to certain modifications to suit local requirements.

The other Ordinances dealing with municipal affairs are of a miscellaneous character; but an amendment introduced into the general law making women eligible for office as municipal councillors deserves mention.

Vermin Extermination.—No. 9 deals with the subject of vermin destruction, vermin being defined as including tiger, leopard, jackal, wild dog, lynx, baboon and grey squirrel. For many years past in the Cape Province considerable sums have been expended on the extermination of the above, more particularly the jackal, with little result. The Ordinance provided for the establishment and organisation of local hunting clubs, and for the payment of rewards for all vermin destroyed.

3. TRANSVAAL.

[*Contributed by* G. HARTOG, ESQ.]

Ordinances passed—22 (of which 8 were appropriation Ordinances).

Rating.—Ordinance No. 4 further amends the Rating Ordinance of 1912 as amended by the Rating Amendment Ordinance of 1916. Previously only the freehold was rateable in other than mining districts within

municipal areas. Now every "interest in land" is made rateable in all areas. Government property, however, remains unrated in mining districts.

The definition of "value of improvements" is amended on the lines of Australian legislation, whilst the New Zealand law is adopted for the definition of "improvements."

Rates are made payable on the amount appearing in the valuation, though an appeal be pending against such valuation, but subject to collection or refund as the case may be of any difference resulting on appeal, plus interest at 6 per cent. Boarding-houses or hostels maintained in connection with Government schools are exempted.

Municipal Elections.—Ordinance No. 9 shifts the date of the annual elections for 1917 a few days to avoid clashing with the 400th anniversary of the Lutheran Declaration.

Alienation of Municipal Lands.—Ordinance No. 12 repeals the Local Authorities' Land Ordinance No. 9 of 1916, and restores, except as to leases under ten years, s. 71 (14) of the Local Government Ordinance No. 9 of 1912, enabling local authorities to sell town lands in freehold or enter into leases of ten years or more, subject only to the consent of the Administrator. Where the local authority is the registered owner of a township (as defined in the Townships Act of 1907) power is given to lease lots therein, subject to consent as above, up to twenty years without any option of renewal. Leases outside such townships for less than ten years may be entered into without such consent, and the money applied as the local authority may think fit.

Shop Hours.—Ordinance No. 5 amends the Shop Hours Ordinance of 1916 by compelling butchers to close at 5 p.m. on week-days other than Wednesdays and Saturdays.

Hospitals.—Ordinance No. 6 restricts the working hours of nurses in provincial hospitals to not more than six days, or six nights in any one week; limits night-duty to eleven hours; and prevents nurses being on night-duty for more than three calendar months in succession, subject, however, to excess duty in cases of urgency, provided cases of excess time and reasons therefor are certified by the Superintendent or Matron, and returns thereof forwarded monthly to the Administrator.

The Hospital Committees' Ordinance of 1915, which provided for the election of Hospital Committees by local authorities, is repealed by Ordinance No. 10, and the old system of nomination by the Provincial Administration restored, the new Provincial Government (elected in 1917) returning to the view that, as the province finds the bulk of hospital revenues, it should retain complete control.

Power is taken to establish a Pension Fund for hospital employees, and to compel contribution thereto.

Education.—Ordinance No. 14 amends Ordinance No. 3 of 1915, and

restores the state of things prior thereto by providing that regulations made under the Education Laws shall remain of force and effect unless and until disapproved of by the Provincial Council in the session in which they are laid on the table.

The Ordinance of 1915 enacted that such regulations were only to be of force and effect until the Council met, and then deprived them of any force or effect until ratified by the Council.

Horse-racing.—Under the Horse-racing and Betting Restriction Act of 1909, every Racing Club duly licensed thereunder could have sixty race-meetings in the year on duly authorised race-days. The result was, that in the Rand and Pretoria areas there were being held over 200 meetings in the year, and, notwithstanding the war, this figure was likely to be exceeded. Ordinance No. 11, in response to a general feeling for curtailment, cut down every licence-holder to fifteen meetings a year on pain of forfeiture of the licence. A minimum charge of 5*s*. for admission to race-meetings is made compulsory except for owners, trainers, employees and club members paying an approved minimum subscription. Persons, other than jockeys, under sixteen are excluded from race-meetings.

Game Preservation.—Ordinance No. 21 amends the Game Preservation Further Amendment Act of 1909 so as to permit owners of fenced farms to hunt buck thereon (under permit) whether for their own use or not.

General Dealers' Licences.—Ordinance No. 17, by repealing the General Dealers' Licence Ordinance of 1916, removed the heavy licence fee based on turn-over, and restored the old nominal registration fee of £1 per licence per annum. It also amended the definition of general dealer so as to exclude (1) the farmer or market gardener who sells produce grown by himself, and (2) the manufacturer, defined as any person or association of persons engaged in the production of a finished article from raw materials or from a combination of other materials.

Taxation.—The year's deficit was met by (1) A House and Bachelor Tax (Ordinance 19). (*a*) The House Tax is a tax on the occupier of dwelling-houses of not less than four living-rooms (kitchen included), at the rate of 5*s*. for every room up to twelve, and 2*s*. 6*d*. per room over twelve. But where dwelling-houses are let in separate parts as flats or lodgings, the tax is based on rental value beginning at £1 on the first £4 of monthly rental and rising 5*s*. for each additional £2 of monthly rental in excess thereof. The occupier is defined as the person occupying or entitled to occupy a dwelling-house or part thereof on December 31, 1917. But in the case of dwelling-houses let as flats, etc., the lessor is deemed to be the occupier of every room therein, in respect of which tax based on rental value is not payable, and the tax then payable by him is on the room basis.

The exemptions are hospitals, charitable institutions, boarding-houses or hostels maintained in connection with registered educational institutions; dwelling-houses not of European construction occupied exclusively by natives; rooms of servants employed by occupiers of dwelling-houses if not internally connected therewith; dwelling-houses occupied by widows having incomes under £300 per annum.

Payment is required by February 28, 1918, under penalty of an addition of 10 per cent. of the tax for each month, or part of a month in default, over and above a fine of £5 or one month's imprisonment in default.

(*b*) The Bachelor's Tax is a tax of £1 on every unmarried male, who, on January 1, 1917, was over twenty-one years of age and resident within the province for not less than ninety consecutive days during the twelve months ending December 31, 1917. Widowers without minor children are included.

Exempted are bachelors liable to house-tax and students regularly attending any recognised educational institute during the six months ending December 31, 1917. Penalty as above.

(2) Ordinance No. 22, imposes in respect of profits for the year ending June 30, 1917, an Excess Profits Tax equivalent to one-fifth of the excess profits duty as assessed under the provisions of the Union Income-tax (Consolidation) Act, 1917. Profits derived from sources outside the province are not assessable.

(3) *Licensing of Bookmakers and Taxation of Bets.*—Ordinance No. 16 requires all bookmakers to be licensed on payment of a registration fee of £5 per annum; and clubs licensed under the Horse-racing Acts of 1909 are prohibited from allowing unlicensed bookmakers on their courses under penalty of fine and loss of licence. The Ordinance further imposes a tax of 2½ per cent. on all bets won from bookmakers, to be deducted by the latter and paid over to the revenue authorities under security as prescribed. A bookmaker is required under penalty to lodge sworn statements within seven days of every race-meeting at which he has "stood up," of the gross amount of bets paid out by him at such meeting, and to pay the tax, if any, due thereon.

Clubs are required under penalty to lodge within four days of any race-meeting a list of all bookmakers there carrying on business. Books may be demanded, and false returns are punishable as perjury.

(4) *Admission to Race-courses Taxation.*—Ordinance No. 18 provides for the imposition of a tax of 20 per cent. on all payments made by persons in respect of admission to a race-course on a day on which any race-meeting is held. The tax is payable by the licencee of the course under the Horse-racing and Betting Act of 1909 as amended by the Ordinance of 1917. Security to the satisfaction of the Revenue Authority must be lodged by the licencee, and due returns made according to regulation.

The use of barriers or mechanical contrivances for regulating admission may be compelled by regulation.

Penalty, £50 fine or six months, and in addition the licence may be forfeited where admission is permitted in contravention hereof.

4. NORTHERN RHODESIA.

1916.

[*Contributed by* CECIL BAYLEY, ESQ., *formerly Secretary to the Law Department of Southern Rhodesia.*]

The legislation at present in force in Northern Rhodesia presents few features of more than local interest, the bulk of the inhabitants being natives of the country. Legislation is enacted by either Royal Proclamation or Proclamation by the High Commissioner for South Africa. During the period under review there have not been any of the former, but sixteen of the latter have appeared. The subjects dealt with include: Trading with the Enemy, Magistrates' Courts and Justices of the Peace, Immigration, Liquor Licensing, Trading in Grain, Agricultural Statistics, Public Roads and Enemy Property and Trade. There are, in addition to the above, a number of regulations framed by the Administrator under powers conferred upon him by the provisions of the original proclamations; they are, however, of purely local interest.

1917.

Royal Proclamations—4; High Commissioner's Proclamations—9.

Three of the above Royal Proclamations deal with contraband of war and other circumstances arising from the existence of hostilities.

The High Commissioner's Proclamations relate to Enemy Property and Claims; War Postage and Pensions; Native Labour and Recruiting; Village Management; Customs and Excise and Magistrates' Court Procedure. None of them presents any features of special interest.

5. SOUTHERN RHODESIA.

[*Contributed by* CECIL BAYLEY, ESQ., *formerly Secretary to the Law Department of Southern Rhodesia.*]

Orders in Council—3; Ordinances—19.

Colonial Solicitors Act, 1900.—The provisions of this Act are applied to the High Court of Southern Rhodesia by an Order in Council dated May 23, 1916. Attorneys desiring to avail themselves of the advantages offered by the Order must have practised for not less than three years, and give four months' notice of their application to be admitted as a

Solicitor of the Supreme Court of England or Ireland, or a Law Agent in Scotland as the case may be. The Order further provides for the production of certain certificates of fitness, etc. In the case of application for admission to practise as solicitor in England, applicants must pass the final examination in law, trust accounts, and book-keeping prescribed by the Solicitors Act, 1877, in Ireland the final examination under the Solicitors (Ireland) Act, 1898, and in Scotland the examination prescribed under the Law Agents (Scotland) Act, 1873. A schedule showing the fees payable and documents to be produced by candidates for admission is attached to the Order.

Trading with the Enemy is dealt with under a Proclamation by the King of February 29. A statutory list is attached to the Proclamation enumerating a number of firms with whom commercial transactions are expressly prohibited. Ordinance 19 also deals with this subject.

Criminal Law Amendment.—Ordinance No. 1 of 1916 provides remedies for dealing with cases of impropriety between European women and native males. An offending native may be expelled from the territory on the expiration of his sentence, if an alien. Ordinance No. 4 makes further provision for the protection of women and girls, whilst Ordinance 3 makes adultery with a native married woman an offence. In all these Ordinances provision is made for corroborative evidence as to alleged infractions of the law.

Intestate Estates.—Ordinance No. 18 of 1916 provides that where the intestate estate of a married person does not exceed £500 in value after paying all charges, the whole estate shall revert to the surviving spouse, if there are no descendants. Should the estate exceed £500 in value, the surviving spouse has a prior claim to £500, with interest at the rate of 6 per cent. from the date of the death of the intestate, and, in addition to the above provision, the surviving spouse is entitled to a moiety of the residue of the estate.

1917.

Orders in Council—4; Ordinances—19.

Probate.—The Order in Council of November 6, 1916, extends the action of the Colonial Probates Act, 1892, to the territories of Northern and Southern Rhodesia, as though each of these Protectorates were a British Possession within the meaning of the Act.

Enemy Trade Marks and Property are dealt with under Ordinance No. 4, which vests the trade marks in the Custodian of Enemy Property, and, should the trade mark be attached to any business formerly carried on in the Territory, vests the goodwill of such business in the custodian. No enemy subject can acquire any immovable property dealt with by the Controller under this Ordinance.

Customs of Tariff.—Ordinance No. 8 raises the duty on spirits from 12*s.* to 15*s.* per proof gallon, and imposes a special rate upon perfumes, liqueurs, and medicinal preparations containing spirits of 25 per cent. *ad valorem.*

War Pensions.—Ordinance 10 provides for increased pensions to persons who have enrolled in His Majesty's forces in any regiment raised in Southern Rhodesia, where it is considered that the compensation made under the Royal Warrant is insufficient to meet the needs of the case. Pensions to widows and children are also provided for.

Accountants.—The persons qualified to practise as Accountants are incorporated into the "Rhodesia Society of Accountants" by this Ordinance, the members being entitled to style themselves "Statutory Accountant (Rhodesia)." Ordinance No. 14 contains a set of rules to be observed by the society, and the qualifications necessary for enrolment as a member. The society has the right, subject to the consent of the Administrator, to frame further bylaws, provided that they are not inconsistent with the terms of the Ordinance.

V. BRITISH INDIA.

[*Contributed by* A. P. Muddiman, Esq., C.I.E.]

1. ACTS OF GOVERNOR-GENERAL IN COUNCIL.

1917.

Acts passed—26.

Inland Steam Vessels.—The Inland Steam Vessels Act, 1917 (No. 1), is mainly a consolidation Act which brings together the law on the subject which was previously contained in several enactments. It repeals and re-enacts the whole of the unrepealed portions of four Acts, commencing with the Inland Steam Vessels Act, 1884. The Act also reconciles a few discrepancies which had crept into the law and makes a few unimportant amendments of substance.

Motor Spirit.—The Motor Spirit (Duties) Act, 1917 (No. 2), is a war measure, and, like most of the Acts of this nature passed by the Indian Legislative Council, is limited in duration to a period of six months after the termination of the present war. It imposes a duty of six annas on an imperial gallon of motor spirit.

The duty is recoverable in the manner prescribed by the Indian Income-tax Act, and the provisions of the Sea Customs Act, 1878, relating to penalties and appeals and other cognate matters are incorporated by reference, whilst a wide rule-making power is given to the Governor-General in Council to provide for auxiliary matters.

The object of the Act was not to raise revenue, but to check the

extravagant use of petrol for pleasure purposes. It has been suggested that it was not notably successful in this respect.

Indian Defence Force.—The Indian Defence Force Act, 1917 (No. 3), is also a war measure. It was preceded by the Registration Ordinance, 1917, and the provisions of that Ordinance are continued by and declared part of the Act, subject to certain amendments. The two measures were enacted for the purposes of introducing a system of compulsory military service for European British subjects ordinarily resident in India. Opportunity was also taken to provide for the voluntary enrolment of other persons in order to meet the expressed wish of the educated Indian community to volunteer for the defence of India. Compulsory service is divided into three classes or categories. Males between the ages of sixteen and eighteen are made liable to military training, from eighteen to forty-one to general military service, and from forty-one to fifty to local military service. General military service involves a liability to serve in any part of India, while local military service only involves a liability to serve in a local area. The details of the scheme are left to be provided for by rules to be made by the Governor-General in Council, and by regulations to be made by the Commander-in-Chief in India. The definition of European British subject includes all persons who had registered under the Registration Ordinance, 1917, and had the effect of including many persons within the scope of the Act who would not otherwise have fallen within the definition, as registration authorities under the Ordinance generally, and apparently correctly, held that their duties were merely ministerial and registered all persons who offered themselves for that purpose.

Suspension of Sentences of Courts-martial.—The Indian Army (Suspension of Sentences) Act, 1917 (No. 4), amended the Indian Army Act, 1911, for the purpose of allowing suspension of certain sentences passed by courts-martial so as to give a *locus pœnitentiæ* to young soldiers. The object and general scope of the Act follow, *mutatis mutandis*, the lines of the English statute on the same subject.

Destruction of Records.—The Destruction of Records Act, 1917 (No. 5 of 1917), is a measure of consolidation and amendment which re-enacts and supplements the previous law regulating the destruction of public documents. Prior to this Act the bulk of the law on the subject was contained in the Destruction of Records Act, 1879; but the provisions of that Act were insufficient to provide for many classes of public documents which had come into existence since it was passed. Opportunity was taken to confirm certain rules on the subject made by the executive authorities which were of doubtful validity.

Tariff.—The Indian Tariff (Amendment) Act, 1917 (No. 6), raised the tariff on imported cotton goods from 3½ to 7 per cent. and doubled the export duties on jute which were imposed by the Act of 1916. It

also made certain other minor charges in relation to imported silver manufactures.

Income-tax.—The Indian Income-tax (Amendment) Act, 1917 (No. 7), remedies an administrative defect in the Indian Income-tax Act, 1886, and enables the Collector to require every person who is, in his opinion, in possession of an income of not less than one thousand rupees to furnish a return of his income for the purposes of that Act.

Super-tax.—The Super-tax Act, 1917 (No. 8), imposes a graduated tax on so much of the total income of any person or company as is in excess of rupees fifty thousand. The rates are set out in a schedule to the Act and range from one anna in the rupee on the first fifty thousand in excess to a maximum of three annas in respect of income over two lakhs in excess.

The definition of "total income" is noticeable, for the following important classes of income are excluded, namely, in the case of a Hindu undivided family the actual expenditure on maintenance, in the case of a firm the payments or final allotments to the members of the firm, and in the case of a company payments by way of dividends or otherwise to the shareholders. A special deduction in these cases is further allowed of one-tenth of the total income liable to income-tax. These three classes are, under the Indian income-tax law, treated as taxable independently from the persons who compose them, and the exemption does not apply to the income in question when it comes into the hands of the individual member of the family, the firm or the company as the case may be. The provisions as to assessment, etc., of the Indian Income-tax are, as far as possible, made applicable, with certain amendments, to the new tax, and a wide rule-making power is provided.

Bills of Exchange.—The Indian Bills of Exchange (Amendment) Act, 1917 (No. 9), amends the similar Act of 1916 by extending the provisions of that Act which excuse delay in the presentation of bills for payment when the delay is due to the war to cases of delay from the same cause, in presentation for acceptance. The measure was promoted by a non-official member of the Legislative Council.

Indian Army.—The Indian Army (Amendment) Act, 1917 (No. 10), makes certain minor amendments in the Indian Army Act, 1911, and permits provision to be made out of the allowances forfeited by prisoners of war for their dependents. The powers conferred by the principal Act in respect of pardons and revision of sentences are also extended.

Currency.—The Indian Paper Currency (Temporary Amendment) Act, 1917 (No. 11), gives further powers, which were necessitated by the continuance of the war, of dealing with the Paper Currency Reserve. It is on the same lines as the Acts dealing with the same subject which were passed in 1915 and 1916.

King of Oudh.—The King of Oudh's Estate Validation Act, 1917

(No. 12), deals with certain matters connected with the estate of the last King of Oudh, Wajid Ali Shah, and sets at rest legal doubts as to action taken by Government authority in the year 1901 in respect of that estate.

Freight Tax.—The Freight (Railway and Inland Steam Vessel) Tax Act, 1917 (No. 13), imposes a tax of one pie per maund on all coal, coke and firewood, and of two pies per maund on all other goods carried by railway or inland steam vessel. It was passed purely with the object of raising revenue.

Cruelty to Animals.—The Prevention of Cruelty to Animals (Amendment) Act (No. 14) amends the Act of 1890 with the object of penalising a particularly terrible form of cruelty which is prevalent in some parts of India. In order to obtain a longer skin, a practice of flaying goats alive was in force in certain parts of India. A rebuttable presumption is set up against an accused charged under the Act who is found in possession of a goat-skin with part of the skin of the head attached thereto, to the effect that such goat was killed in an unnecessarily cruel manner.

Registration of Documents.—The Indian Registration (Amendment) Act, 1917 (No. 15), has rather a curious history. The Bill, which was introduced by a non-official member, sought to remedy the hardship which had been caused by the Privy Council decision in *Jambu Prosad* v. *Aftab Ali Khan*, which declared that the prevailing practice by which the well to-do classes and pardanashin ladies sent servants not properly authorised under the terms of the Registration Act to present documents for registration was insufficient, and that failure to comply with the provisions of the Act rendered the registration ineffective. It was proposed to do this by dispensing with the safeguards of the existing law in regard to the authorisation of agents for the purpose of registration of documents. The Legislative Council were not prepared to go as far as this, and the Act as passed merely allows reregistration in such a case within four months of the person claiming under the document discovering the flaw. A special provision dispenses with the limitation of time for a period of three months from September 1915, by which date it was considered the decision of the Privy Council was generally known.

Patna University.—The Patna University Act, 1917 (No. 16), incorporates and gives a constitution to the University of Patna in the Province of Bihar and Orissa. The Act contains no feature of particular legal interest, but the constitution of the University differs in some matters from the constitutions of the older Universities.

Government Savings Banks and Post Office Cash Certificates.—Two short Acts, Nos. 17 and 18, confer additional facilities for the payment of deposits or sums due on certificates to deceased depositors or

holders. The object of the legislation was further to popularise these classes of securities with small investors.

Paper Currency.—The Indian Paper Currency (Amendment) Act, 1917 (No. 19) gives legislative power for the issue of one and two and a half rupee notes—a step which had been necessitated by the shortage of silver currency. The Act further confers additional facilities for dealing with the Paper Currency Reserve.

Transfer of Ships.—The Indian Transfer of Ships Restriction Act, 1917 (No. 20), provides that no interest in a British ship registered in British India shall, without the previous assent of the Governor-General, be transferred to a foreign controlled company or to a person not qualified to be an owner of a British ship.

Trusts.—The Indian Trusts (Amendment) Act, 1917 (No. 21), includes the guaranteed debentures of the Bombay Central Co-operation Bank, Limited, among the trust securities mentioned in s. 20 of the principal Act.

Import of Gold.—The Gold (Import) Act, 1917, empowers the Government to acquire all gold imported into British India at such rate as it may fix.

Presidency Small Cause Courts.—Under the provisions of s. 7 of the Presidency Small Cause Courts Act, 1882, only advocates of the Chartered High Courts are eligible for appointment to the post of Chief Judge. The Presidency Small Cause Courts (Amendment) Act, 1917 (No. 23) enables vakils or attorneys of those Courts to be so appointed, and thus removes a disability which had become an anomaly in existing circumstances.

Statute Law Revision.—The Repealing and Amending Act, 1917 (No. 24), continues the recent practice of revising and pruning the Statute-book. Schedule I. makes certain formal amendment in existing Acts, and Schedule II. repeals certain provisions which are either spent or have otherwise become obsolete.

Baronetcy.—The Sir Currimbley Ebrahim Baronetcy (Amendment) Act, 1917, corrected a flaw which had been discovered in the statutory settlement in regard to this baronetcy which was made by the main Act of 1913.

Transfer of Property.—The Transfer of Property (Validating) Act, 1917 (No. 26) was passed in consequence of a decision of the Privy Council [1] which had the effect of reversing the view which the Allahabad High Court alone among the Indian High Courts had maintained as to the meaning of "attest" in s. 59 of the Transfer of Property Act, 1882. The effect of the Privy Council decision was to invalidate many documents which had been executed in places within the jurisdiction of the Allahabad High Court. It was felt that relief on equitable terms to

[1] I.L.R. 35 Mad. p. 607.

parties who had been misled by the mistaken view of the Court was not unreasonable. The Act provides for validation and gives power to the Courts to restore claims in the special cases set out in its provisions.

2. MADRAS.

Act passed—1.

The only Act passed by the Madras Legislature in 1917 was of a local character, and was intended to limit the rate of interest and to check the transfers of land in the backward areas known as the Agency tracts of the Ganjam, Vizagapatam and Godavari districts. The protection is extended to the hill tribesmen only of these areas.

3. BOMBAY.

Acts passed—6.

Many of the Acts passed are purely of local interest, but the Bombay Boiler Inspection Act, 1917 (No. 5) consolidates and amends the law on the subject of the inspection and management of steam boilers in that Presidency, while the Bombay Municipal and Local Boards (Amendment) Act, 1917, is an interesting development in that it makes certain corrupt practices at municipal and local board elections a criminal offence, and adds provisions for election inquiries enabling a candidate to be declared disqualified if he is found to have committed a corrupt practice.

4. BENGAL.

Act passed—1.

Adulteration of Ghee.—The Calcutta Municipal (Amendment) Act, 1917, enacts somewhat drastic provisions with the object of securing the purity of ghee. It is made an offence to sell, manufacture or store any ghee which contains any substance which is not derived exclusively from milk, or which is adulterated, unwholesome or unfit for human food. Ignorance of the nature of article sold, manufactured or stored is declared to be no defence to a charge under this provision.

5. BIHAR AND ORISSA.

Act passed—1.

Interpretation.—The Bihar and Orissa General Clauses Act, 1917, provides for the interpretation of Acts of the local legislature and also for certain Bengal Acts still in force in that Province. Save for provisions necessary to meet the special circumstances by which Acts of different legislatures are in force in the Province, the Act follows very closely the usual Provincial legislation on this subject.

6. UNITED PROVINCES.

Acts passed—5.

Gambling.—The United Provinces Public Gambling (Amendment) Act, 1917 (No. 1), amends the general law of gambling contained in the Public Gambling Act, 1867. It may be noticed that betting in an enclosure on a race-day is excepted from the definition of "gaming" if the enclosure has been set apart for that purpose, with the sanction of the Local Government, by the stewards controlling the races.

Medical Practitioners.—The United Provinces Medical Act, 1917 (No. 3), is another of the Acts establishing a provincial Medical Council for the maintenance of a register of medical practitioners which have been passed by almost all local legislatures in India. It is to be hoped that at some future date these provincial Acts may be replaced by a general Act which, while allowing elasticity to meet the wishes of local governments, will make the law on the subject easily accessible in so far as its main provisions are concerned.

Settled Estates.—The Oudh Settled Estates Act, 1917 (No. 5), enables certain specified classes of landholders in Oudh to settle their estates with the permission of the local government. This and the remainder of the Acts passed in 1917, are mainly of purely local interest.

7. CENTRAL PROVINCES.

Acts passed—3.

Courts.—The Central Provinces Courts Act, 1917, consolidates and amends the law relating to the Courts in the Central Provinces. The increase in judicial business had necessitated amendment, and the Act has the incidental advantage of embodying the law in an Act of the provincial Council instead of in an Act of the Governor-General's Council, in which Council, owing to there being no local Council, it had originally to be enacted.

Revenue.—The Central Provinces Land Revenue Act, 1917 (No. 2), is another consolidating and amending Act which deals with the land revenue system of the Central Provinces. The Act is a long one of 230 sections and by it four Acts are repealed.

The remaining Act is of purely local interest.

8. BURMA.

Acts passed—6.

Water Hyacinths.—The object and purpose of the Burma Water Hyacinths Act, 1917 (No. 1), appears sufficiently from s. 3, which runs as follows: "The presence of the water hyacinth in Burma is hereby declared to be and is a public nuisance." The Act prohibits the pos-

session of the noxious plant, and requires owners or occupiers in certain circumstances to destroy it, subject to penalties on failure to do so, and a liability to allow the work to be performed by the authorities.

Salt.—The Burma Salt Act, 1917 (No. 2), consolidates and amends the law in Burma relating to salt. It applies to the whole of Burma, and brings together the law, which was scattered over several enactments, within the compass of one Act.

Excise.—The Burma Excise Act (No. 5) deals with the law of Excise, and follows very closely the provisions of similar Acts which have recently been enacted by other local legislatures.

Adulteration.—The Burma Ghee Adulteration Act, 1917 (No. 6), deals with the adulteration of ghee much on the lines followed in the amendment of the Calcutta Municipal Act referred to under the head of Bengal. The remaining Acts are of minor importance and of purely local interest.

9. REGULATIONS UNDER S. 71 OF THE GOVERNMENT OF INDIA ACT, 1915.

Regulations made—2.

The amending regulations to the Arakan Hills Civil Justice Regulation, 1874, and to the Chin Hills Regulation, 1896, are of purely local interest.

10. ORDINANCES UNDER S. 72 OF THE GOVERNMENT OF INDIA ACT, 1915.

Ordinances made—4.

Registration of European British Subjects.—The Registration Ordinance, 1917, was a preliminary to, and, as far as not spent, is embodied in the Indian Defence Force Act, 1917, which has already been dealt with.

Paper Currency.—The Indian Paper Currency (Amendment) Ordinance, 1917, has been superseded by and has already been dealt with under the heading of the permanent legislation on the same subject.

Gold and Silver.—The Gold (Import) Ordinance, 1917 (No. 3) and the Silver (Import) Ordinance, 1917 (No. 4) provided for the compulsory acquisition of gold and silver respectively. The former was repealed and re-enacted by the Gold (Import) Act, 1917, which has been already referred to.

VI. EASTERN COLONIES.

1. CEYLON.

1916.

[*Contributed by* L. MAARTENSZ, ESQ., *Additional District Judge, Colombo.*]

Ordinances passed—42.

The majority of the ordinances passed effected small amendments.

Vehicles.—Ordinance No. 4 simplifies and amends the law relating to the issue of licences for vehicles let for hire and the number-plates issued therewith, and incorporates into the Vehicles Ordinance the provisions of the present Motor-car Ordinance (No. 15) of 19 8.

Waterworks.—The Colombo Municipal Waterworks (Amendment) Ordinance (No. 9) increases the power of the Municipal Council of Colombo with reference to the mains in private streets. The Council is empowered to lay water mains in private streets and recover the costs as a rate from the premises benefited. Provision is made for the owner of a water-main privately laid to recover contributions towards its cost from the owners of premises from time to time connecting with it.

Hotel-keepers.—Under the Roman-Dutch law the liability of a hotel-keeper for the property of guests at the hotel is unlimited. Ordidance No. 19 limits the liability of hotel-keepers to Rs. 750, unless (*a*) the goods have been stolen, lost, injured through the act, default or neglect of the hotel-keeper, or any servant in his employ; or (*b*) the goods have been deposited expressly for safe custody with the hotel-keeper or his manager.

If a hotel-keeper or manager refuses to receive for safe custody any goods of a guest, or if a guest is unable, through any default of the hotel-keeper or manager, to deposit his goods, the hotel-keeper is not entitled to the benefits of the Ordinance in respect of such goods.

The liability of hotel-keepers where no sleeping accommodation is provided and rest-house keepers who are paid servants of a Provincial Road Committee is limited to Rs. 250.

Disabled Men.—The object of the Disabled Ceylon Men's Ordinance (No. 31) is to incorporate the standing committee of the Association known as "The Disabled Ceylon Men's Fund" with a view to facilitating the permanent administration of the trust funds committed to it.

Firearms.—The following are the changes effected by the Firearms Ordinance (No. 33).

1. The certificate for the purchase of a gun under the Ordinance of 1908 was indefinite in duration and applied indiscriminately to any class and any number of firearms. Under the new Ordinance, s. 14,

guns are purchaseable on permits issued by the licensing authority, valid for thirty days, and specifying the gun to be purchased.

2. Under the repealed Ordinance there is no restriction on transfer, except that notice must be given to the licensing authority, but the transferee must apply for a new licence, which the licensing authority might refuse.

Under the new Ordinance the transferee must apply for a permit of transfer, and, if the permit is granted, is entitled to the endorsement to him of the existing transfer.

3. The fees for a gun-licence are substantially raised.

4. The importation and repairing of guns are regulated by licence.

1917.

Ordinances passed—45.

Disease.—The object of the Quarantine and Prevention of Diseases Ordinance (No. 7) is to deal with the case of a person being landed in the colony for medical treatment, or on the ground of supposed mental derangement, and the agent at whose request he was landed declining to remove him from the Colony when he has sufficiently recovered to be able to travel.

By s. 2 (*b*) the Principal Collector of Customs may, upon its being certified by the Principal Civil Medical Officer that the patient is in a sufficient stage of recovery for travelling, compel any shipping company which has landed such patient in the Colony to remove him, either to the place of his original destination or to the place of his original departure, as the case may be.

Trust.—The Trusts Ordinance (No. 9) is divided into eleven chapters.

In chapter 1 a "trust" is defined as an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another person, or of another person and the owner, of such a character that, while the ownership is nominally vested in the owner, the right to the beneficial enjoyment of the property is vested or to be vested in such other person, or in such other person concurrently with the owner. A trust does not include a *fidei-commissum*.

Chapter 2 deals with the creation of trusts. By s. 7 a trust may be created (*a*) by every person competent to contract, and (*b*) with the permission of the Court by or on behalf of a minor.

Chapter 3 deals with the duties and liabilities of trustees; chapters 4 and 5 with the rights and powers and disabilities of trustees; chapter 6 with the rights and liabilities of the beneficiary. Chapter 7 deals with the vacating of the office of trustee. Chapter 8 deals with the extinction of trusts, chapter 9 with constructive trusts, and chapter 10 with charitable trusts.

Aliens.—The Supervision of Aliens Ordinance (No. 14) provides for the supervision of aliens engaged in missionary or educational work in the Colony. An "alien" means any person other than a British subject.

Kandyan Marriages.—The Kandyan Marriage Ordinance (No. 23) declares the law applicable to the issue of marriages between persons subject to the Kandyan law and persons not so subject.

Coins.—The Ceylon Coinage Ordinance (No. 33) prohibits the melting down of gold and silver coins.

2. HONGKONG.

[*Contributed by* C. G. ALABASTER, ESQ., O.B.E.]

Ordinances passed—32.

Military Contribution.—The War Loan Amendment Ordinance (No. 1) adds a new section to the principal Ordinance (No. 12 of 1916) making it clear that all moneys appropriated out of the revenue and assets of the Colony for the payment of the interest on the war loan bonds and for the formation of the sinking fund, as well as the dividends and interest produced by any investments forming part of the sinking fund, are to be deducted from the colonial revenues before the calculation of the 20 per cent. payable to the Imperial Government under the Defence Contribution Ordinance 1901 (No. 1 of 1901).

Arrest by Revenue Officers.—The Revenue Officers' Power of Arrest Ordinance (No. 2) repeals No. 6 of 1913 and No. 11 of 1916 and confers on Revenue Officers powers of arresting without warrant persons suspected of offences against the provisions of any enactment specified in the second schedule to the Ordinance. By s. 4 the Governor in Executive Council is empowered to amend the schedule in any manner whatsoever—an instance of delegation of powers by the Legislature to the executive for which no apparent reason can be assigned.

Portuguese Wines.—The Anglo-Portuguese Commercial Treaty Ordinance (No. 4) limits the trade descriptions "port" and "Madeira" to the produce of Portugal and Madeira respectively, except in the cases of existing stocks and of liquor intended for export.

Grass and Forest Fires.—Much injury is done annually to the trees and shrubs planted by the Government for the general improvement of the Colony by grass fires deliberately lit by the Chinese rural populace for the purpose of improving the growth of grass fodder. The Forest Fires Prevention Ordinance (No. 5) makes this an offence punishable by fine when done in such a manner as to damage or endanger any forest or plantation. The Crown Land Preservation Ordinance (No. 6) has a similar object. It repeals No. 10 of 1910 and enables the Governor in Council, on the report of a special Court of Inquiry, to impose fines on

villages or areas the inhabitants of which have caused wilful or wanton damage to trees or plants on Crown land.

Extradition to Malay States and Borneo.—The Malay States Extradition Amendment Ordinance (No. 7) repeals No. 4 of 1903 in so far as it applied to the States of Perak, Selangor, Pahang, Negri Sembilan, Kelantan, Kedah and Perlis—that is to say, the 1903 Ordinance now applies only to the State of Trengganu. The North Borneo Extradition Ordinance (No. 16) repeals No. 1 of 1896.

Rating of Educational Establishments.—The Rating Amendment Ordinance (No. 9) repeals No. 13 of 1915 and amends the principal ordinance (No. 6 of 1901) by enabling the Governor in Council to authorise the total or partial exemption from assessment of any educational institution not already exempt under s. 39 (2) of the principal Ordinance, or of any tenement used in connection therewith.

Debts of Public Servants.—The Public Servants' Liabilities Ordinance (No. 10), which applies only to persons holding permanent appointments, the emoluments of which are directly derived from the revenues of the Colony and whose substantive pay does not exceed two hundred dollars a month, protects these subordinate officers from becoming the victims of money-lenders. No action may be brought against any such public servant (*a*) upon any promise to repay money paid or advanced to him or another person at his request; (*b*) upon any promise to be answerable for the debt or default of another, or (*c*) upon any bond, bill of exchange, promissory note, or other like instrument. The Ordinance does not apply to liabilities contracted before its commencement.

Enemies' Affairs.—The Alien Enemies (winding up) Amendment Ordinance (No. 11) effects numerous but unimportant amendments in the Ordinances dealing with the winding up of the affairs of enemy concerns.

Young Women.—The Protection of Women and Girls Amendment Ordinance (No. 12) amends the principal Ordinance (No. 4 of 1897 as amended by No. 9 of 1914) by raising the age in abduction and procurement cases from twenty to twenty-one years.

Merchant Shipping.—The Merchant Shipping Amendment Ordinance (No. 13) relaxes during the war requirements as to certificated officers in the case of river steamers, and makes new regulations for launch and motor boats.

Special War Rate.—The Rating (Special War Rate) Ordinance (No. 18) authorises the levy of a special additional rate of 7 per cent. on the valuation of tenements.

Local Conscription.—By the Military Service Ordinance (No. 19) every male British subject ordinarily resident in the Colony, and between the ages of eighteen and fifty-five, is made liable to military service in the Colony. Those exempted are (*a*) members of His Majesty's regular

naval or military forces, (*b*) civilians in the employment of the naval or military authorities if recommended for exemption by the naval or military authorities, and (*c*) men in holy orders or regular ministers of any religious denomination. As a result of this Ordinance the Volunteers and Volunteer Reserves have become merged in the Defence Corps.

Police Reserve.—The Hongkong Police Reserve Ordinance (No. 20) changes the title of the special police to the "Hongkong Police Reserve," and makes provision for the maintenance of discipline in the force.

Jury Amendment.—The Jury Amendment Ordinance (No. 21) amends No. 6 of 1887 by making it clear that the receipt of pay as a member of the Defence Corps shall not disqualify or exempt a person from jury service. It also exempts from jury service officers and non-commissioned officers of the corps.

Service on Enemies.—The Legal Proceedings against Enemies Ordinance (No. 22) is based on 5 & 6 Geo. V. c. 36.

Boarding-houses.—The Boarding-house Ordinance (No. 23) enables the Governor in Council to make rules for the classification, registration, licensing and management of hotels, boarding-houses and common lodging-houses.

Intoxicating Liquors.—The Liquor Ordinance (No. 24) amends the principal Ordinance (No. 9 of 1911). It prohibits the sale of intoxicating liquor for consumption on licensed premises except for cash. This provision, which is aimed at the "chit system" of giving pencilled I.O.U.'s instead of cash, is not to apply in the case of sales to persons residing on the licensed premises or to liquors consumed in conjunction with *bona fide* meals.

The Ordinance also requires the owners, charterers, agents and masters of ships entering or leaving the Colony to furnish, import and export statements with regard to dutiable liquors carried in their ships.

Deportation.—The Deportation Ordinance (No. 25) amends and consolidates the law relating to the deportation of undesirable persons. In its main features it adheres to the procedure introduced by Ordinance No. 9 of 1912. The principal novel features are contained in ss. 4 and 13:

> 4 (1) Subject to the provisions of sub-section (14) of this section the Governor in Council may at any time issue a deportation order against any person whatsoever if upon inquiry in the manner prescribed in this section the Governor in Council is of opinion that such person is liable to deportation and should be deported.
>
> (2) No steps or proceedings whatsoever other than those expressly specified in this section shall be necessary for the making of any deportation order under this section.

Sub-ss. (3) to (13) lay down a procedure to all intents and purposes identical with that introduced by s. 3 of No. 9 of 1912 as amended by No. 10 of 1913.

(14) This section shall not apply to any British subject except in the following cases:

(*a*) Any person who, in the opinion of the Governor in Council, has been guilty before or after the commencement of this Ordinance of any criminal offence, or of any other misconduct connected with the preparation, commencement, prosecution, defence or maintenance of any legal proceeding, or the sharing in the proceeds thereof, or the settlement or compromise thereof, or the obtaining or preparation of evidence in anticipation thereof or in relation thereto;

(*b*) Any person who, in the opinion of the Governor in Council, has been guilty before or after the commencement of this Ordinance of any criminal offence, or of any other misconduct which is not included under paragraph (*a*) of this sub-section, but which is connected with the administration of the law relating to bankruptcy or of the law relating to the winding up of companies;

(*c*) Any person who, in the opinion of the Governor in Council, has been guilty before or after the commencement of this Ordinance of any criminal offence or of any other misconduct connected with the preparation, registration, presentation, filing, issuing or certifying of any document which any public officer is required or empowered to register, receive, file, issue or certify;

(*d*) Any person, who, in the opinion of the Governor in Council, was born in the Colony of parents neither of whom was a British subject at the date of the birth of such person and who has not obtained a certificate of his British birth under the hand of the Governor and the public seal of the Colony.

13. The decision of the Governor in Council as to whether, under the provisions of this Ordinance, any person is liable to deportation or should be deported shall be final and conclusive for all purposes whatsoever.

The first natural-born British subject to be dealt with under this Ordinance was Li Hong Mi, for many years an interpreter at the Supreme Court, and subsequently clerk and interpreter in various solicitors' offices. The statutory steps were followed, but all the evidence on which the charges were made was withheld from him. He therefore brought an action against the Attorney-General and other officials claiming that the Ordinance was *ultra vires*, and that in any event, on the principle of *Capel* v. *Child*,[1] and *Smith v. The Queen*,[2] inasmuch as he could not answer or explain testimony of which he was kept in ignorance, he had not been heard in his defence in any proper sense of that term. The Full Court in June 1918 gave judgment for the defendants, but it is understood that the case will be carried further.

Opium Trade Marks.—The Opium Ordinance (No. 27) makes further provision against the counterfeiting of labels, wrappers and marks used in connection with Government opium.

[1] C. & J. 558. [2] 47 L.J.P.C. 58.

Ferries.—The Ferries Ordinance (No. 28) enables the Governor in Council to make regulations for licensing and regulating ferries.

Retirement of Public Officers.—The Pensions Amendment Ordinance (No. 29) enables the Governor in Council, subject in certain cases to the approval of the Secretary of State, to require any judge or other public officer to retire from the service at any time after he attains the age of fifty-five years, or to require any judge or other public officer to retire from the service at any time, if, in the opinion of the Governor in Council, such judge or other public officer is unable from any cause to discharge efficiently the duties of his office.

War Contracts.—The contracts (War Restrictions) Ordinance (No. 31) is based on 5 & 6 Geo. V. chaps. 8 and 37.

Insurance Companies.—The Fire and Marine Insurance Companies Deposit Ordinance (No. 32) provides for the making of deposits by such companies and is based on 9 Edw. VII. c. 49.

3. MAURITIUS.

[*Contributed by* E. KOENIG, ESQ., *Procureur-General.*]

Ordinances passed—24.

Volunteers.—The Volunteer Force (Amendment) Ordinance, 1917 (No. 1), empowers the Governor to call out the Volunteer Force or a portion thereof for active service by means of an order in writing addressed to the officer commanding the Mauritius Volunteer Force, instead of by proclamation.

Stamp Laws.—Ordinance No. 2 provides for certain duties being paid in cash in lieu of stamps, thus carrying into effect a recommendation of the Royal Commissioners (1909).

Ordinance No, 21 reduces the stamp duty on small policies of insurance not exceeding Rs. 500, thus facilitating the issue to the poorer classes of "Industrial Policies."

Customs.—Ordinance No. 10 makes provision to prevent smuggling (a lacuna in the laws of the island) and is borrowed from the Malta Ordinance No. 7 of 1909.

Nationality.—Ordinance No. 14 is necessary in view of sub-s. 2 of s. 19 of the British Nationality and Status of Aliens Act, 1914, to fix the fees in accordance with the schedule to the Act.

Agricultural Chemists.—The Registration of Agricultural Chemists Ordinance, 1917 (No. 17), reproduces the Registration of Agricultural Chemists Ordinance, 1915, with the following modifications:

(1) Persons holding the diploma of Fellow or Associate of the Institute of Chemistry of Great Britain and Ireland have been added to the list of persons entitled to registration.

(2) The qualification of candidates for the preliminary and final examinations has been omitted from the Ordinance, the matter being now dealt with by regulations.

VII. WEST AFRICA.

1. GAMBIA.

[*Contributed by* M. F. J. McDonnell, Esq., *Legal Adviser.*]

Ordinances passed—17.

Statute Law Revision.—No. 1 contains provisions connected with the issue of the revised edition of the laws (No. 1).

Old Metal Dealers.—No. 7 is based on the English Act of 1861, but is more stringent than that enactment, inasmuch as all old-metal dealers must be licensed. Under the English law only persons convicted of offences are required to be registered, and then only for a period not exceeding three years.

Fugitive Criminals.—No. 8 serves to transfer from the judge of the Supreme Court to the police magistrate the original jurisdiction in cases in which the surrender from the Protectorate of fugitive criminals from foreign States is demanded.

Summary Review.—Under No. 11 the judge of the Supreme Court is given an automatic appellate jurisdiction over the decisions in criminal cases of the native tribunals in the Protectorate.

Lunatics.—No. 15 provides for the certification and detention of lunatics.

Promissory Oaths.—No. 16 sets forth in detail the oaths to be taken by different officers, and serves to amend certain inconsistencies in the principal Ordinance.

2. GOLD COAST.

[*Contributed by* Sir Albert Gray, K.C.B., K.C.]

(i) COLONY.

Ordinances passed—18.

Motor-cars, etc.—Some amending provisions relating to the weights and markings of cars are made by No. 1. Also the duties are fixed for motor-cycles at 10*s.* for cars under 13 cwt. at £1 1*s.*, and, for those over that weight, £3 3*s.*

Education.—The Board of Education is reconstituted by No. 3, and the standards for elementary education are prescribed.

Plague.—Power is taken to prohibit building on, or habitation or tillage of, ground in which are buried the bodies of persons who have died of plague (No. 8).

Enemy Property.—The Enemy Property Ordinances of 1914 and 1916 are amended by No. 11. The expression "Corporation under enemy control" is defined as including one in which any director is an enemy, or in which 10 per cent. of the capital is held by enemy share-

holders. The same provision as to directors is made in regard to the expression " corporation under foreign control," but a holding of 25 per cent. of the capital is required to constitute " foreign control." Immovable properties described in the schedule, 84 in number, belonging to enemies, are vested in the controlling officer, and are to be sold by him. Owners of extinguished interests may, within six months of notice of the sale, claim compensation, which, if allowed, is, after deduction of expenses, paid to the custodian, to be held by him till the end of the war, when it is to be dealt with as directed by the Governor. Purchasers of the properties must be British subjects, and must not transfer them to enemies. Debts owed by the enemy proprietors may be paid out of the purchase-money according to a scale of preference.

Frontier Force.—The service of members of the West African Frontier Force whose time for discharge occurs during the war, is extended for the duration of the war (No. 14).

Mineral Ore.—A recital to No. 18 states that " certain mineral ore " has been discovered in the Kwaha district, that " the paramount exigencies of Imperial British interests imperatively require " that the control over output of this ore should be vested in the Government, and that a lease of the property has been made by the several chiefs of the " stools " concerned. The Ordinance confirms the lease.

(ii) ASHANTI.

Ordinances passed—3.

Defence.—The Gold Coast Defence of the Colony Ordinance, 1914, is extended to Ashanti (No. 3).

(iii) NORTHERN TERRITORIES.

Ordinances passed—2.

Constabulary.—A constabulary force for these territories is created in an ordinance of normal provisions as to officers, terms of engagement, discharge, gratuities, etc.

4. NIGERIA.

[*Contributed by* E. GARDINER SMITH, ESQ., *Crown Prosecutor.*]

Ordinances passed—70.

The year 1917 saw the revised Statute-book of Nigeria nearing completion. In this year the output of new Ordinances reached its probable maximum. " Bella gerant alii ; tu felix *Nigeria jube.*"

Emergency Legislation.—No. 2 (Enemy Property (Disposal)) and No. 27 (Enemy Property Disposal (No. 2)) authorise the sale by the Receiver of the lands, goodwill and trade-marks of enemy firms, and prescribe the order of ranking of their creditors.

No. 12 (Public Custodian (Amendment)) amends No. 47 of 1916, and provides that enemy property vested in a Receiver can be vested in and disposed of by the Custodian. S. 6 (collection of dividends payable to an enemy) is founded on the Trading with the Enemy Acts 1914 and 1915, and similar to enactments passed for other West African Colonies.

No. 14 (Trading with the Enemy and Export of Prohibited Goods) extends to Nigeria, the provisions of s. 1 of the Trading with the Enemy and Export of Prohibited Goods Act, 1916 (penalties for false statements, etc.)

The pension rights of civil officers lent to the East Africa Campaign are preserved by No. 4 (War Service in East Africa), and the retention in the Nigeria Regiment of N.C.O.'s and privates whose time expires during the war is authorised by No. 34 (West African Frontier Force (Nigeria Regiment) (Amendment)).

Piers.—No. 6 of 1916 has been replaced by No. 3 of 1917, which gives further protection to the owners of existing piers.

Arms.—No. 8 (Arms) replaces No. 72 of South Nigeria Laws; No. 15 of 1908 (South Nigeria); and No. 32 of North Nigeria Laws. Air-guns have been included in the definition of "arms of precision." Powers are given to the Governor in Council to restrict the use of Dane guns, etc. (s. 22 (*f*)).

Land.—No. 9 (Public Lands Acquisition) replaced and amplified No. 112 of South Nigeria Laws, No. 10 of 1909 (South Nigeria), and No. 11 of 1913 (North Nigeria). The definition of "public purposes" is given in detail (s. 2), and power is conferred upon the Governor to withdraw from the acquisition of land (s. 18).

A judge of the Supreme Court recently held that No. 111 of South Nigeria (Native Lands Acquisition) did not provide with sufficient precision that an alien was liable to penalties if native lands were occupied without the Governor's approval under no written instrument. This defect is remedied by No. 32 of 1917.

Administration.—The provisions of No. 10 (Real Estate) and No. 11 (Small Estates) of the South Nigeria Laws have been combined in No. 11 (Administration (Real Estate and Small Estates)). The provision of the Land Transfer Act, 1897, that, in granting administration to real estate in case of intestacy, the Court shall have regard to the heir-at-law, has been inserted (s. 3). The facilities provided in the case of small estates are extended to persons in the employ of a local authority (s. 4).

Shipping.—No. 47 (Shipping and Navigation) consolidates the provisions of eight Ordinances. It is divided into seven parts: (1) Shipping Fees; (2) Relief of Distressed Seamen and Succouring of Ships' Passengers; (3) Unseaworthy Ships; (4) Passenger Steamers Survey; (5) Inland Waters Navigation; (6) Licensing of Boats; and (7) Repeals.

No. 64 (Ports) consolidates the provisions of four enactments of South Nigeria. It deals, *inter alia*, with (1) port dues of various kinds; (2) lights, buoys and beacons; (3) powers of Harbour Master; and (4) vessels adrift; and empowers the Governor in Council to make regulations under fifteen different heads.

No. 13 (Admiralty Transports (Discipline) Amendment) is a product of the war. It extends the provisions of No. 45 of 1916 to include the control of persons other than persons on the ship's articles. It also makes an extract from the log admissible in evidence in prosecutions under the Ordinance.

No. 43 (Navy Discipline) repeals and re-enacts No. 31 of South Nigeria Laws (conveying liquor on board H.M. ships, and complicity in desertion).

Master and Servant.—No. 16 (Master and Servant) re-enacts the provisions of No. 102 of the South Nigeria Laws, and No. 49 of the North Nigeria Laws, with certain omissions and amendments. Under the law of South Nigeria, contracts, where no duration was expressed, could be terminated at the end of any day, without notice. Under the North Nigeria proclamation, the contract could be terminated by a month's, week's or day's notice, according to whether the wages were payable monthly, weekly or daily. Under the new Ordinance, the contract can be terminated without notice at the end of any month, week, or day, according to whether the wages are payable monthly, weekly or daily. In the case of a person engaged at a daily wage, the contract can be determined at the end of any day, notwithstanding that the wage is not paid daily (s. 9). S. 11 provides that, when the employer is a non-native, the wages must always be paid in money.

Liquor.—Nos. 28, 49 and 17 are the new Liquor Laws of Nigeria, and repeal all laws of North and South Nigeria on the subject. No. 28 (Liquor) deals with liquor other than native-made liquor. It establishes an elaborate system of liquor control. Nigeria is divided into prohibited areas, licensed areas and restricted areas (s. 4). Prohibited areas include the Northern Provinces, where the importation of liquor was restricted before in accordance with the Berlin Convention. There, trade spirits are excluded, and the sale of any spirits to natives is prohibited. The introduction of liquor is controlled, and it can be sold only under licence. In licensed areas, which include the Colony, townships, and places where the sale of liquor can be controlled, the sale of liquor is permitted under licence. This leaves as restricted areas those parts of the Protectorate in which liquor has long been dealt in by the natives. Here, non-natives and foreigners who wish to sell liquor must take out licences from the Nigerian Government, while the Native Administrations are left to regulate sales by natives. The Ordinance provides for ten different kinds of licences (s. 22). Applications for licences and renewals are in

most cases to be reported on by the local magistrate and decided by licensing Boards (s. 27 *et seq.*).

No. 17 (Native Liquor) deals with native-made liquor. The Ordinance may be applied to any area by Order in Council (s. 2). Native liquor may then be sold only under a licence (s. 4). In most cases the political officer of the area will be the Licensing Authority (s. 5).

Local Government.—No. 29 (Townships) marks an important advance in the evolution of Nigeria, and is of special interest. It sweeps away the patchwork of cantonments, reservations, sanitary districts, etc., and substitutes a uniform series of civil areas called "townships" administered by local authorities. Townships are of three classes: (1) first class township, administered by a nominated town council; (2) second class township, administered by a government officer assisted by an advisory board; and (3) third class township, administered by Government through the district officer or other official. In the case of first class townships, the town council may enact bylaws with the approval of the Governor. Rules for second and third class townships are made by the Governor. The revenues of first and second class townships are vested in the local authority, to be expended for township purposes. Moneys collected in third class townships will be paid into general revenue. Provision is made for extending the jurisdiction of local authorities over what are called urban areas, *i.e.* areas adjacent to a township, but which cannot, for administrative reasons, be included in the area of the township. Rates are not leviable under this Ordinance, except in the Northern Provinces, where a cantonment rate previously existed. The Ordinance also contains general municipal provisions regulating streets, buildings, fences, trades, etc. These apply as a whole to first class townships, and in part to second class townships, and any of them may be made applicable to townships of the third class.

Markets.—No. 30 (Markets) repeals No. 84 of the Laws of South Nigeria, and provides for the control of all markets throughout Nigeria. No new market may be established without the consent of the Governor (s. 6).

Public Health.—No. 33 (Public Health) consolidates the laws of North and South Nigeria relating to public health, infectious diseases, destruction of mosquitoes, etc., but excludes provisions which are more suitable for regulations. It applies to every township of the first and second class (*vide supra* sub.-tit. *Local Government*) and may be applied in whole or in part to any other area by Order in Council.

No. 60 (Vaccination) repeals the former law. Vaccination will continue to be compulsory in the Colony and Southern Provinces, and can by Order in Council be made compulsory in any area in the Northern Provinces. Powers are taken to enforce vaccination in case of epidemic (s. 10). S. 15 imposes a penalty for wilfully inoculating with small-pox.

There is a cult of Shopono or small-pox among the Torubas, which is not made less attractive by its rule that the priests shall get the property of the victims.

Hospitals.—No. 41 (Hospital Fees) is substituted for c. 77 of South Nigeria Laws, and contains some new provisions. S. 4 makes fees payable in respect of a ship-master or seaman recoverable from the master, owner, consignee, or charterer, or their agent. The payer may retain the amount from money received on account of the ship.[1] S. 5 imposes an obligation on employers of labour to pay, in certain cases, the charges for services rendered and medicines supplied to their servants in government hospitals.

Registration (Births and Deaths) and Burials.—No. 48 (Births, Deaths and Burials) consolidates the provisions of the Ordinances of South Nigeria and one proclamation of North Nigeria. Under the new Ordinance all births and deaths occurring amongst non-natives are registrable, and the Governor in Council is empowered to make births and deaths occurring amongst natives in any specified area registrable (s. 3). Native administrations are empowered to provide for the registration of births and deaths occurring amongst natives in areas where such births and deaths have not been made registrable by an Order in Council (s. 48). Provision has been made to authorise the registration of a birth or death, the registration of which is not compulsory under the Ordinance (s. 49). S. 39 specifies on whom the duty of causing a body to be buried falls.

Pawnbrokers.—No. 35 (Pawnbrokers) repeals and re-enacts, with amendments, No. 18 of 1912 of South Nigeria. *Inter alia*, ss. 11 (4) (receipt for repayment of loan, etc.); 17 (power to inspect sale-book); and 25 (delivery to owner of property unlawfully pawned) have been brought into line with the Pawnbrokers Act, 1872.

Weights and Measures.—As there are certain native weights and measures commonly used in the Northern Provinces which cannot be abolished forthwith, a saving clause has been inserted in No. 36 (Weights and Measures), which repeals No. 51 of the laws of South Nigeria, and re-enacts it, with amendments, as an Ordinance of Nigeria. Power is also given to the Governor in Council to standardise such native weights and measures.

Money-lenders.—No. 37 (Money-Lenders) repeals No. 20 of 1912 of the South Nigeria laws, and follows the Moneylenders Act, 1900.

Bills of Exchange.—No. 38 (Bills of Exchange) repeals No. 50 of South Nigeria Laws. The protection given to a banker who, in good faith and in the ordinary course of business, pays a bill on which there is a forged endorsement has been extended to drafts drawn by his own bank, in conformity with the unrepealed s. 19 of the Stamp Act, 1853.

[1] *Cf.* the Hospital Fees Ordinance of the Gold Coast.

The provisions of s. 1 of the Bills of Exchange (Crossed Cheques) Act, 1906, have been incorporated in s. 82.

Police.—In South Nigeria the police force was administered by an Inspector-General, while the North Nigeria police were controlled by the Residents of the provinces, and the Inspector-General was confined to duties of inspection, etc. The consolidating Ordinance, No. 39 (Police), retains the two systems. It provides for the appointment of special constables (s. 20).

Newspapers.—No. 40 repeals No. 135 of South Nigeria laws. It contains a new definition of "newspaper" (s. 2). Proprietors, as well as printers and publishers, are now required to give the bond (s. 3). Power is taken to appoint a censorship of newspapers (s. 17).[1]

Legal Practitioners.—The Supreme Court Ordinance of South Nigeria contained provisions penalising unqualified conveyancers (s. 95). In the revision of the laws of Nigeria it has been thought more logical to express these provisions, or at least part of them, in a separate Ordinance, No. 44 (Legal Practitioners).

Criminal Law.—No. 46 (Criminal Procedure (Amendment)) brings No. 9 of 1914 (Criminal Procedure) up to date by tacking on the reforms introduced in England by the Indictments Act, 1915.

No. 61 (Criminal Code (Amendment)) amends the recent Criminal Code contained in No. 15 of 1916. *Inter alia*, it has been thought helpful to introduce a section defining in detail what is meant by contempt of Court. This leaves the summary powers of Courts of record (secured by s. 7 of No. 15 of 1916) untouched. A person guilty of contempt in relation to a Commission of Inquiry can be punished by a Court of Criminal Jurisdiction under the new section (s. 133 of the Code). A provision has been inserted in s. 210 making it an offence to be in possession of any human remains to be used for purposes of juju. An amendment to s. 31 makes "joy-riding" (*i.e.* unauthorised use of vehicles) an offence.

A similar provision is found in the Queensland laws.

Diseases of Animals.—No. 52 (Diseases of Animals), which replaces No. 19 of 1918 of South Nigeria laws, is a typical skeleton Ordinance, giving the Governor in Council power to make regulations under sixteen different heads.

Immigration.—No. 65 (Immigration Restriction) is founded on No. 17 of 1906 of British East Africa. It repeals No. 29 of 1908 of South Nigeria. Its scope is restricted to cases of persons who are not natives of Nigeria. Amongst the undesirables whom it aims at excluding are persons likely to be dangerous to peace and good order,[2] and labourers recruited without the Governor's consent.[3] The new Ordinance also places the restrictions which have been proved to be necessary on per-

[1] *Cf.* No. 7 of 1914 of the Nyasaland Protectorate.
[2] *Cf.* the Nyasaland Ordinance. [3] *Cf.* No. 15 of 1916 of the Gold Coast.

sons who are not British subjects, and who propose to carry on missionary or educational work among the natives of Nigeria.

Company Law.—No. 8 of 1912 of South Nigeria reproduced, *mutatis mutandis*, the provisions of the Company (Consolidation) Act, 1911. There was no company law in North Nigeria. The South Nigeria Ordinance has been extended to the whole of Nigeria by No. 66 (Companies Ordinance (Amendment and Extension)). Some minor amendments have been made, and the law has been brought up to date; *e.g.* provisions relating to private companies, from the Companies Act, 1913, have been introduced into s. 120 of the South Nigeria law.

Adulteration of Produce.—The South Nigeria law permitted inspection of produce by the Government. The Consolidating Ordinance No. 67 (Administration of Produce), whilst preserving this, also enables the Governor to make provision for the compulsory examination of all produce before exportation.

VIII. EAST CENTRAL AFRICA.

1. EAST AFRICA PROTECTORATE.

Ordinances passed—12.

[*Contributed by* Sir Robert Hamilton, *Chief Justice.*]

Of the twelve Ordinances passed during the year five were of purely emergency character for the war. Nos. 2 and 8 relate to the discipline of crews on vessels under charter to the Admiralty or War Council. No. 4 is in extension of the Trading with the Enemy Ordinances of 1915–16, and provides for the disposal of the immovable property of alien enemy firms in liquidation.

Compulsory Service.—No. 5 extends the Compulsory Service Ordinance, 1915, and prevents an employee leaving his employer's service without his consent during the war.

Aliens.—No. 12, designed to prevent immovable property passing into unfriendly hands during war time, forbids alienation to non-British subjects or persons not natives of British Protectorates without the Governor's consent.

"Anzac."—No. 9 arises out of the war, and forbids the use of the word "Anzac" for trade purposes.

Of the remaining legislation, No. 11 provides for inspection of boilers and machinery, while the remainder are appropriation or amendment Ordinances which call for little comment with the exception of No. 3, which makes it an offence to advertise a reward for the recovery of property lost or stolen on the understanding that no questions will be asked.

2. SOMALILAND.

[*Contributed by* D. T. JARDINE, ESQ.]

There is nothing in the legislation of 1917 deserving of special mention.

IX. SOUTH ATLANTIC.

1. BRITISH GUIANA.

[*Contributed by the* HON. J. J. NUNAN, K.C.]

Twenty-eight Ordinances were passed during the year 1917. Ordinance No. 26 renewed the Civil List Establishment for five years ending December 31, 1922.

War Legislation.—War Legislation is represented by Ordinances Nos. 19 and 21. The former regulates the administration and disposition of enemy property, and follows closely the imperial statutes. The latter is of special local importance, as it gives power to the Governor to fix by proclamation the quantity or proportion of any article of food which may be exported from the Colony, and also power to make regulations to enable the quantity of food existing in the Colony or in any part of it to be ascertained and to provide for all necessary registers. Power to fix prices already existed under Ordinance No. 22 of 1914, and total prohibition is possible under the Customs Ordinance, 1884, and Ordinance No. 30 of 1915.

Registration of Resources.—Ordinance No. 22 provides for the registration of cultivated lands, crops and live-stock. Occupiers of land are bound to furnish immediate returns, and hereafter annual returns.

Administration of Estates.—Ordinance No. 10 is an important Ordinance declaring and amending the law relating to the administration of estates of deceased persons. It follows the lines of the recent legislation of the Union of South Africa as regards probate and letters of administration. It provides that the estates of all persons dying testate or intestate shall vest in the personal representative or representatives of the deceased and shall be administered and distributed according to law under a grant of probate or letters of administration by the Registrar upon an order of the Court. It prescribes for notification of deaths, the duties of executors and administrators, inventories, the passing of accounts before the Registrar and a Guardian's Fund for moneys of minors, lunatics and absentees without representatives. This Ordinance should effect a very considerable reform, especially in regard to the administration of intestate estates.

2. FALKLAND ISLANDS.

[*Contributed by* Sir Albert Gray, K.C.B., K.C.]

Ordinances passed—5.

War Expenses.—The Colony engages itself to pay annually from January 1, 1917, to H.M. Treasury, a sum equal to 1*s.* 10*d.* in the £ of the Customs revenue of the year towards the expenses of the war (No. 1).

Whale and Seal Oil.—All whale and seal oil must be exported and sent to the U.K. for sale during the war and for six months thereafter, except with the special permission of the Governor or Secretary of State (No. 3).

Merchant Seamen.—Any seaman engaged to serve on any ship chartered or hired by the Admiralty, who neglects without reasonable cause to join his ship, or is absent from duty without leave, or is drunk when joining or on board, is liable to punishment under s. 221 of the Merchant Shipping Act, 1894 (No. 4).

Letters patent dated March 28, 1917, are published, defining the limits of this Colony. They are "all islands and territories" between Long. 20 and 50 W., situated south of Lat. 50 S., and between Long. 50 and 80 W., situated south of Lat. 58 S.

X. THE WEST INDIES.

1. BAHAMAS.

[*Contributed by the* Hon. Harcourt Malcolm, K.C.]

Acts passed—15.

Parliament.—The General Assembly Act, 1917 (No. 1), extends the life of the Parliament which would have expired by effluxion of time on July 18, 1917, for eleven months, so to expire on June 18, 1918.

Post Office.—The Post Office Amendment Act, 1917 (No. 5), increases the rate of interest allowed by the Post Office Savings Bank from 2½ to 3 per cent. and alters the date for making the return of expenditure under the Act from March 31 to April 30.

Counterfeiting Coinage.—The Coinage Offences Act, 1917 (No. 6), is a code of the law against offences relating to coin and is based on a Grenada Ordinance.

Supply.—The Appropriation Act, 1917 (No. 15) grants £29,936 16*s.* 4*d.* for the performance of public works, etc., and the discharge of various public obligations. Two items of interest are, first, a grant for the study and application of modern methods in the treatment of venereal diseases and for the publication and distribution of information about such diseases; and a section in the Act donating to the British Red

Cross Society one half of the gross proceeds of the sale of the special issue of the one penny Queen's Staircase Stamps during the financial year 1917 to 1918.

2. BARBADOS.

[*Contributed by the* HON. SIR W. H. GREAVES, *Chief Justice.*]

Acts passed—53.

Gambling and Lotteries.—The Gambling Act (No. 9) aims at the suppression of common gaming-houses and public lotteries. From the operation of the Act, however, are excepted non-proprietary social clubs, the Pari-Mutuel of the Barbados Turf Club, and lotteries carried on for some charitable object under licence from the Chief of Police.

Vagrancy.—The Vagrancy (Amendment) Act (No. 13) renders liable to arrest and punishment (1) persons loitering on any highway, yard or other place who cannot give a satisfactory account of themselves, or who are suspected of intent to commit an offence; (2) persons found in an enclosed place, and being there for the purpose of committing an offence; and (3) any suspected person or reputed thief frequenting any place with intent to commit a felony. The proof of such intent is facilitated by the adoption of the provisions of s. 15 of the Prevention of Crimes Act, 1871.[1]

Salvation Army.—The Salvation Army Act (No. 15) makes the General of the Salvation Army, for the time being, a corporation sole with perpetual succession, and vests in him all the real and personal estate in this island belonging to the Army. The usual powers of acquisition, disposal, etc., are given.

Foreign Missionaries.—The Foreign Missionaries Regulation Act (No. 39) prohibits the landing, without the permission of the Governor, of persons, not being British subjects, who intend to engage in missionary or educational work in this island. This Act also prohibits persons, not being British subjects, from engaging in such work in this island without the permission of the Governor; but the rights of such persons engaged in such work at the date of the passing of the Act are saved.

3. BRITISH HONDURAS.[2]

[*Contributed by* L. H. ELPHINSTONE, ESQ.]

Ordinances passed—28.

Wild Birds Protection.—Ordinance No. 16 of 1915 prohibited the killing during the close season of the birds specified in Schedule B. to the Ordinance. In Committee a number of birds were deleted from the schedule

[1] 34 & 35 Vict. c. 112.

[2] The Revised Edition of the Consolidated Laws of British Honduras is referred to as "the Laws of 1914."

on the ground that they are injurious to agriculture or commonly used as food. This caused a considerable gap in the Empire campaign against the plumage trade. Ordinance No. 1, by prohibiting the sale or export of the birds omitted from the Schedule B. to Ordinance 16 of 1915, will, it is hoped, stop the gap without preventing the legitimate destruction of mischievous birds by agriculturists. The Ordinance is not to apply to "the sale of any bird, whether dead or alive, intended in good faith to be used for food, or to the sale of any live bird intended to be kept alive in captivity."

Stamp Duties.—Ordinance No. 3 for the first time imposes stamp duties on written instruments. The Ordinance follows the general lines of the English Stamp Act, 1891, and Stamp Duties Management Act, 1891. The most important departure from the English Acts is the area of taxation, which is defined in s. 14 of the Ordinance as follows:

(5) Unless otherwise provided, the charge of duty by this Ordinance applies only to instruments relating to property situated in the Colony, or to some matter or thing done or omitted or which may or is to be done or omitted in the Colony, but applies to such instruments whensoever executed.

It will be seen that instruments executed in the Colony but relating solely to property situated outside the Colony are exempt from the colonial stamp duty. It remains for the Imperial Parliament to reciprocate by amending s. 14 of the Stamp Act, 1891, so as to exempt from the imperial duty instruments executed in the United Kingdom, but relating solely to colonial property.

Companies are dealt with by s. 14 (6) as follows:

(6) The stock of a company incorporated outside the Colony which has a place of business in the Colony, or owns land in the Colony, shall, for the purposes of stamp duty, be deemed to be situated in the Colony.

But where an instrument relating to the stock of any such company is executed by the holder of the stock in the country under whose laws the company is incorporated that stock shall not for the purposes of the stamp duty on that instrument be deemed to be situated in the Colony.

Insurance policies executed in the Colony, or relating to property in the Colony, or where the sum insured is to be paid in the Colony, require to be stamped. But by s. 53 (4)—

A policy of insurance which is not executed in the Colony or effected through an agent in the Colony of the insurer and is duly stamped in accordance with the law for the time being in force in the United Kingdom or some British possession shall not, by virtue of this Ordinance, be liable to any stamp duty by reason only that it relates to property in the Colony or provides that the sum insured shall be paid in the Colony.

Defence of the Colony.—Ordinance No. 7 empowers the Governor to

make regulations "for securing the public safety and the defence of the Colony," and in substance follows the Imperial Act on the subject.

Telephone Rents.—Ordinance No. 11 provides for the summary recovery of telephone rents and call fees.

Government Savings Bank.—Ordinance No. 12 raises the maximum deposit on which interest shall be allowed from $1,000 to $2,000.

Disease-bearing Vermin.—Ordinance No. 13 empowers any health officer who—

considers that any building, or any vessel, whether in quarantine or not, or any person, or the clothing of any person, is in such a verminous state as to be likely to spread disease" to direct "such building or vessel or any part thereof and such article or clothing to be fumigated or otherwise treated, and such person to bathe or otherwise treat his entire body in such manner as may be necessary to ensure the complete destruction of all vermin.

Assaults.—C. 20 of the Laws of 1914 (reproducing ss. 42 and 43 of the (Imperial) Offences against the Person Act, 1861 [1]) provides that the maximum fines shall include the costs. This has been found to be inconvenient as, owing to travelling difficulties, the costs in summary cases are sometimes considerable. Ordinance No. 15 provides, in effect, that the maximum fines can be imposed, exclusive of costs, which will be dealt with in accordance with the ordinary law as to costs in summary trials.

Sponge Fisheries.—Ordinance No. 16 empowers the Governor in Council to regulate the sponge fisheries.

Abatement of Nuisances.—The procedure of an action for an injunction in the Supreme Court to restrain a nuisance is hardly a satisfactory remedy in a tropical country, where the values of house property are generally low and the capacity of defendants to pay costs often nil. Nor does the public health law as to nuisances [2] quite meet the situation.

Ordinance No. 20 accordingly confers on Courts of summary jurisdiction power to order the abatement of all nuisances whether public or private, and also to prohibit the recurrence of the nuisance. An order prohibiting the recurrence of a nuisance is required to be registered in the Central Deeds Registry.

Licensing Badges for Cycles.—Ordinance No. 22 introduces the system of licensing badges for cycles and similar vehicles.

Power for the Executive to reduce Duties.—Ordinance No. 6 increased the export duty on *chicle* (the raw material of chewing-gum) and contained the following proviso:

Provided always that the Governor in Council may, if he thinks fit, at any time reduce the rate of duty to 1 per cent. per pound.

[1] 24 & 25 Vict. c. 100.

[2] Ss. 123–127 of c. 56 of the Laws of 1914 founded on s. 91 of the Public Health Act, 1875.

Subsequently it was considered undesirable that the executive should be given such a power, and accordingly the above proviso was repealed (Ordinance No. 19).

A similar fate overtook s. 14 (No. 2) of the Stamp Ordinance (*supra*) which gave power for the Governor in Council, with the approval of the Secretary of State, to reduce the rate of duty on instruments of any description if satisfied that the duty caused undue hardship or was unduly restrictive of business or entailed expense or trouble incommensurate with the revenue obtained. The offending section was repealed by Ordinance No. 23.

Patents.—Ordinance No. 24 requires the notice of intention to proceed with an application for letters patent [1] to be given within three months from the delivery of the petition for the patent. Power is given for the commissioners of patents to extend the time up to a maximum of six months.

Fraudulent Labourers.—Ordinance No. 27 attempts to deal with the growing evil of " piece work " labourers accepting an advance of wages and then declining to do the work. It provides (s. 2) for the summary punishment by fine or imprisonment up to six months for any person who—

> Having contracted, either in writing or otherwise, to perform or to procure the performance of any work by bodily labour for a fixed sum or for a sum depending on the amount of work performed, accepts from his employer an advance of money or goods not exceeding in amount or value the sum of $100, and without reasonable excuse fails or neglects to commence or to complete the work within the stipulated time, or, if no time is stipulated, within a reasonable time. . . .
>
> Provided that a person shall not be convicted under this section unless the Court is satisfied that, either when entering into the contract or subsequently, he acted with intent to defraud his employer.

4. JAMAICA.

[*Contributed by the* Hon. E. St. John Branch, K.C., *Attorney-General.*]

Laws passed—24.

Currency Notes.—Law No. 2 makes currency notes issued under the Imperial Act 4 & 5 Geo. V. c. 14 legal tender in Jamaica.

Contribution to War Expenditure.—Law No. 5 provides that the Island Treasurer shall pay to the Lords Commissioners of the Treasury £60,000 a year for forty years in reduction of the war debt of the United Kingdom. The preamble sets out that " it is right and proper that the inhabitants of this island should contribute according to their ability to the expenses incurred by the Mother-country in the prosecution of the present war."

Government Savings Bank.—Law No. 7 consolidates and amends the

[1] See s. 11 of c. 126 of the Laws of 1914.

laws relating to the Government Savings Bank and gives wide powers as regards the investment of deposits.

Emergency Legislation.—Law No. 10 provides for the vesting in the Custodian of Enemy Property of any Trade Mark, the proprietor whereof is the subject of a State at war with His Majesty, and provides for the assignment of any such trade mark.

Law 11 follows, *mutatis mutandis*, the provisions of ss. 1 and 2 of the Imperial Trading with the Enemy and Export of Prohibited Goods Act, 1916.[1]

Law No. 16, part 2, follows, *mutatis mutandis*, the provisions of the Imperial National Registration Act, 1915.[2]

Part 1 provides that every male British subject resident in Jamaica who has attained the age of eighteen years, and has not attained the age of forty-one years, is liable to be called up by the Governor for military service in the island or beyond the limits of the island for the period of the war, and under s. 21 (2) the men so called up become subject to the Army Act while serving abroad. The rest of the law deals with Exemption Tribunals and with the method of selecting the men required for service. The introduction of the Bill raised the question as to whether a Colony clothed with authority within the limits of the Colony to provide for the peace, order and good government of the inhabitants thereof can provide for military service within the limits of the Colony. The matter has very practical importance, as the question whether a legislature has exceeded its competence and the lawful bounds of its prescribed powers is one which may be determined by the Courts, and the royal assent would not establish the validity of a Bill which is in excess of the jurisdiction of the Colony in which it is passed. The narrower view as to the limitation of colonial legislative power is often referred to as having been established in *Macleod* v. *The Attorney-General of New South Wales*[3]; but it seems clear that if extra-territorial legislation is excluded in all respects from the competence of colonial legislatures a condition of things would exist which would be inconsistent with the powers granted them to provide for peace, order and good government.

Law No. 22 follows somewhat the provisions of the Imperial Acts 4 & 5 Geo. V. c. 78, and 6 & 7 Geo. V. c. 13.

Detention of Habitual Criminals.—Law No. 21 is on the lines of the Imperial Act 8 Edw. VII. c. 59 (Part 2), but the question whether the offender is an habitual criminal is dealt with by the judge and not the jury, and no term of preventive detention is fixed. S. 4 provides, however, that the Governor shall discharge the offender at the expiration of ten years from the commencement of the term of preventive detention unless the Governor has definite reason to believe that, if released, the offender will relapse into crime.

[1] 6 & 7 Geo. V. c. 52. [2] 5 & 6 Geo. V. c. 60. [3] 1891 A.C. p. 455.

5. TRINIDAD AND TOBAGO.

[*Contributed by the* HON. THE ATTORNEY-GENERAL.]

Ordinances passed—47.

War Contribution Tax.—Nos. 1 and 4 provide for a contribution to His Majesty towards the cost of the war. The amount is raised by means of a tax on incomes of £500 per annum and over. The tax is fixed at 6*d*. in the £1 on incomes up to £1,000, increasing to 6*s*. 8*d*. in the £ on incomes over £10,000.

Wireless Telegraphy.—Apparatus or installations for wireless telegraphy are not to be established or used without a licence from the Governor on such terms and conditions as may from time to time be prescribed under No. 6. Ships in the territorial waters of the Colony must use their wireless apparatus in accordance with regulations made by the Governor in Executive Council. Penalties are provided for damaging apparatus and obstructing the sending of messages.

Governor.—No. 7 consolidates the Ordinances relating to the Governor's salary and leave of absence, and provides for payment of one-fifth of the Governor's salary to his deputy in certain cases.

Trading with the Enemy.—No. 10 enacts the provisions of the Trading with the Enemy and Export of Prohibited Goods Act, 1916.

Alien Missionaries and Teachers.—Persons other than natural born or naturalised British subjects are prohibited by No. 11 from engaging, or landing for the purpose of engaging, in religious or educational work without the permission in writing of the Governor. The granting of such permission is absolutely in the Governor's discretion and subject to any conditions he may impose.

Advances on Agricultural Produce.—When land and the growing crops thereon and the produce to be made therefrom are mortgaged or charged, such crops, when severed, and such produce are not to be deemed personal chattels within the Bills of Sale Ordinance, but shall for all purposes be deemed to be lawfully mortgaged or charged. Sugars made by factory owners from farmers' canes may also be mortgaged. Other sections relate to what may be provided by instruments under Ordinance No. 14, the purchase of mortgaged crops without notice, and the registration of instruments.

Alien Enemies.—No. 16 gives further powers of dealing with enemy property, principally with regard to estates subject to encumbrances. These are to vest in the Liquidating Committee, who may sell them free from encumbrances, but the rights of mortgagees and others are secured by a right to compensation. Enemies are not to be allowed to acquire interests in lands sold by the Liquidating Committee.

Perjury.—No. 17 enables a judge or magistrate summarily to impose

imprisonment not exceeding six months or a fine not exceeding £50 for perjury committed during the hearing of a case. A person so sentenced by a magistrate may appeal to the Supreme Court.

Summary Convictions (Offences).—No. 25 provides special powers for dealing with prædial larceny. Any constable or person appointed for the purpose by the Inspector-General may arrest without warrant any "suspected person." "Suspected person" means any person who has been or is in possession of any article of agricultural produce under such circumstances as shall reasonably cause any constable or person appointed by the Inspector-General to suspect that such article has been stolen or has been received, knowing the same to have been stolen, or has been in any other way dishonestly come by. On being taken before a magistrate, if the suspected person refuses, or is unable to satisfy the magistrate that his possession of the article is or was lawful, he may be convicted of the unlawful possession thereof.

Liquor Licences.—Clubs in which intoxicating liquor is sold must be registered under No. 26 by the magistrate of the district in which they are situate. In January of each year the secretary of every club must apply to the magistrate for registration, producing a return summarising the rules of the club, giving evidence in verification thereof and satisfying the magistrate that a fee of £5 has been paid to the Receiver-General. Notice of the application is to be given to the Inspector-General of Constabulary, who may oppose the application.

The object of this legislation is to prevent the establishment of bogus clubs which are formed solely for the purpose of selling alcoholic liquors without the restriction imposed by the Liquor Licensing Laws.

Shouters.—No. 27 prohibits the meetings of the body of persons known as "Shouters."

Oil-bearing Lands.—By No. 292 no person may acquire any right, title or interest in or over any oil-bearing land without the Governor's consent.

Petty Civil Courts.—The judge of a Petty Civil Court, by No. 35, may try a case of trespass where the value of the land is not more than £25 and no substantial point of law is involved.

Confinement of Animals.—To prevent damage to cultivation by swine and goats, all such animals must, except when in transit, be kept in confinement (No. 39).

Solicitors.—Charges touching the honesty, integrity or financial status or touching the professional conduct of a solicitor or articled clerk are to be brought by way of petition to the Supreme Court, and the matter will be investigated and decided by the Court without reference to the Law Society (No. 41).

6. WINDWARD ISLANDS.

(i) GRENADA.

[*Contributed by* N. JULIAN PATERSON, ESQ., K.C., *Attorney-General.*]

Ordinances passed—21.

The Ordinances of more general interest are as follows:

Medical Registration.—Ordinance No. 3 amends the law relating to the registration of medical practitioners. The principal Ordinance provided that only persons registered under the Imperial Medical Acts were entitled to be registered in the Colony. The war and other causes, however, rendered it expedient to extend the right of registration. The new Ordinance confers the right of registration on (*a*) the holder of any British, British Indian, or British Colonial diploma entitling him to registration in the United Kingdom; (*b*) the holder of any diploma granted by any medical school in Europe, the United States of America, or Japan, the diplomas of which are recognised in the United Kingdom as entitling the holder to registration, and (*c*) the holder of a diploma granted in a British Possession or the United States of America which is recognised by the Governor in Council as furnishing a sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of medicine, surgery and midwifery. The Ordinance grants a right of appeal to the Supreme Court against an Order of the Governor in Council directing the name of a registered practitioner to be removed from the register.

Carnival.—The festival celebrated in the Colony during Shrove Tuesday and the immediately preceding day, in which the persons taking part are usually masked, gives rise to a good deal of disorderly conduct. Ordinance No. 11 forbids persons taking part in the carnival to carry whips, sticks, or other offensive weapons, and confers on the Governor in Council a general power to make rules for the control of the Carnival.

Local Loan.—Ordinance No. 12 authorises the Government to make a loan not exceeding £100,000 for the execution of certain specified works, *e.g.* improvement of roads and the provision of water supplies.

Military Service.—Ordinance No. 15 makes provision with respect to military service in connection with the present war. It has not been found necessary to put the Ordinance into operation.

Venereal Diseases.—The object of Ordinance No. 16 is to combat the spread of venereal diseases. It prohibits persons other than medical practitioners from treating such diseases, requires infected persons to place themselves under medical treatment and to continue under treatment until certified to be cured, and imposes on medical practitioners the duty of giving to their patients prescribed information as to their liabilities and the character of the disease. The Ordinance further

imposes on parents and guardians of children suffering from venereal disease the duty of causing such children to comply with the requirements of the law. A person who, knowingly, infects any other person with a venereal disease is liable to a fine of £100 or to imprisonment for a term of not more than twelve months or to both such fine and imprisonment.

Divorce.—Ordinance No. 17 confers on the Supreme Court jurisdiction in divorce and matrimonial causes.

Emigration of Children.—Allegations having been made that children from a neighbouring Colony had been taken to a South American Republic and there detained in a condition not far removed from serfdom, Ordinance No. 18 was passed as a precautionary measure. The Ordinance applies to any country out of the British Dominions to which it is applied by an Order of the Governor in Council. No child is allowed to leave the Colony to any such country unless accompanied by a parent or legal guardian, or the permission in writing of the Governor has been obtained. Such permission will not be given unless the Governor is satisfied that the child will be under proper care and custody in the country to which it is proceeding. If there is good cause to suspect that a parent or guardian is about to convey a child to such a country and that it is not for the benefit of the child to be so taken, a notice forbidding the removal of the child from the Colony may be given to the parent or guardian. Acts in contravention of the Ordinance are punishable by fine or imprisonment or by both.

Income-tax.—Ordinance No. 19, which provides for a graduated tax on incomes at rates varying from 3*s.* to 10*s.* in the £, was disallowed.

(ii) ST. LUCIA.

(Contributed by the HON. J. E. M. SALMON.]

Ordinances passed—12.

Agricultural Credit Societies.—Ordinance No. 1 amends No. 10 of the 1916 Revision and empowers the Governor in Council to (*a*) authorise an increase of membership of a society, and (*b*) to make regulations and forms controlling the operation of societies for the co-operative purchase, curing, shipping and sale of agricultural produce and co-operative purchase, distribution and use of manures and agricultural implements and other matters incidental to agriculture.

Anzac.—Ordinance No. 9 prohibits the use of the word Anzac in connection with any trade, business, calling or profession. It is a transcript of the Imperial Act on the same subject.

Cattle Slaughter.—Ordinance No. 5 prohibits the slaughtering of immature cattle and cattle in young. The onus of proof is on the defendant, but he is entitled to acquittal if he satisfies the Court

that the slaughtering was in obedience to lawful authority, or from a humanitarian motive such as the prevention of suffering or for any other sufficient cause.

Children Emigration.—Ordinance No. 10 is intended to control the peonage traffic in children. It empowers the Governor to refuse permission for any "child," *i.e.* a person under eighteen years of age (since amended by Ordinance No. 13 of 1918 to sixteen years) to leave the Colony for any place outside the British Dominions in similar terms to the Grenada Ordinance.

Shop Closing Hours.—Ordinance No. 6 requires shops in the town of Castries and within half a mile thereof to be closed between 4 p.m. and 7 a.m. except on public half-holidays (at present Wednesday afternoons) when the closing hour shall be not later than 1 p.m., or on Saturdays or the days preceding whole public holidays, when it shall not be later than 5 p.m.

It also empowers the Governor in Council to make orders regulating shop closing in any part of the Colony. Public notice of the order has to be given and any objections to it are to be considered. On the approval of any such order by the Legislature and its publication in the *Gazette* it is to have the effect of an Ordinance.

Licensing authorities may be appointed to grant exemptions to retail shops, principally grocery, extending the opening hours in their case.

Certain transactions are also exempted, such as serving customers actually purchasing at the closing hour, selling medicines, drugs and medical appliances, selling to lodgers and passengers, and articles required in case of sickness or death, and also stamps and ice. Shops may also open during the closing hours for receiving (but not for opening) imported goods, or for delivering goods for export, or for mere writing work or other work necessary owing to arrival or departure of ships after the closing hour, or for stock-taking.

The occupier of the shop, his servants, agents, or others acting for him are liable for any breach of the provisions of the Ordinance; but the occupier can exempt himself from conviction on proving that the breach was not with his knowledge, consent or connivance, or due to any default on his part. The onus of proof that a shop is an exempted shop or was legally opened during the closing hours is on the defendant.

The Ordinance does not apply to places where the only business is that of a tobacconist, newsagent, hotel, inn, tavern, victualling or refreshment house or other place for selling certain articles of food, or for repairing or manufacturing articles, or clubs, or military, volunteer or police canteens, or licensed liquor premises.

(iii) ST. VINCENT.

[*Contributed by the* HON. A. DE FREITAS.]

Ordinances passed—27.

In the year 1917 twenty-six Ordinances were passed, some of which related to appropriation and special war measures, and others of more general interest were as follows:

Motor-cars.—No. 1 repealed sub-section 2 of s. 10 of the principal Ordinance, 2 of 1914. The repealed sub-section had restricted the right of appeal to persons who were adjudged to pay a fine exceeding 20*s.* or were ordered to be imprisoned without the option of a fine; it was a transcript of sub-section 2 of s. 11 of 3 Edw. VII. c. 36, which was inadvertently adopted, with the result that it modified s. 3 of Ordinance No. 24 of 1911, which gives a general right of appeal against every summary conviction or acquittal.

Interpretation of Statutes.—No. 2 supplements the Interpretation Ordinance, 1895, by providing that, where an Ordinance gives power to make, grant or issue any proclamation, Order in Council, Letters Patent, Commission, or other instrument the power shall be deemed to include a power to amend, vary, rescind or revoke any such instrument.

Boundary Marks.—No. 7 makes provision for the punishment of persons who injure or remove boundary marks on lands sold by Government to settlers.

Highways.—No. 9 is an amending Highways Ordinance based on ordinances on the same subject of Grenada in 1905 and of Trinidad, No. 200.

Appeals from Magistrates.—No. 13 amends the Magistrates' Decisions (Appeals) Ordinance 1911, No. 24 of 1911, which is a transcript of the British Guiana Ordinance 13 of 1893. The amendments provide that an appellant may enter into a recognisance before any magistrate, and not, as required by the principal Ordinance, only before the magistrate against whose decision he appeals; and they also permit an appellant, in cases where a police constable is to be the respondent, to serve on the chief of police the notices required by the principal Ordinance to be served on the respondent.

Restitution of Stolen Property.—No. 15 enacts adaptations of 24 & 25 Vict. c. 96, s. 100, 30 & 31 Vict. c. 35, s. 9, 56 & 57 Vict. c. 71, s. 24 (2) and 7 Edw. VII. c. 23, s. 6.

Devolution of Real Estate.—No. 17 provides for the vesting of real estate in the personal representatives of a deceased person, and it adopts the provisions of Part I. of 60 & 61 Vict. c. 65.

Customs and Excise Duties.—No. 19 provides for the collection of Customs and Excise Duties, for which provision is made in a Bill, im-

mediately upon the Bill being read a first time. It is designed to prevent merchants withdrawing goods from bond to avoid new duties. Provision is made for the refund of duty collected under a Bill which does not pass.

Municipal Scholarships.—No. 20 and No. 21 respectively give power to the Wardens of Georgetown and to the Kingstown Board to grant pecuniary assistance towards the education at the Government Secondary School of boys associated with Georgetown or Kingstown.

Emigration of Children.—No. 23 regulates the emigration of children with a view to preventing them being taken to countries, to which the Ordinance is made to apply by Order in Council, where they may not be properly treated.

The Law of Inheritance.—The Legislature of the Colony, in its Inheritance Act, No. 344 of 1871, enacted the exact terms of the English Inheritance Act, 1833,[1] without adopting the supplementary provisions enacted twelve years earlier by s. 19 of the English Act of 1859.[2] No. 24 of 1917 now adds to 344 of 1871 the provisions of that s. 19.

Intestates' Estates.—No. 25 makes provision for widows of certain intestates in the terms of 53 & 54 Vict. c. 29.

Administration of Estates.—By No. 26 the Legislature of the Colony has at last adopted the provisions of Hinde Palmer's Act.[3]

7. LEEWARD ISLANDS.

FEDERAL.

[*Contributed by* Sir Albert Gray, K.C.B., K.C.]

Acts passed—7.

Weights and Measures.—The standard weights and measures for the Colony are to be those of the U.K. as fixed by the Weights and Measures Act, 1878 (No. 1).

Medical Practitioners.—The Medical Consolidation Act, 1917 (No. 2) is amended by a provision authorising the Governor in Council to license as a duly qualified practitioner any person holding such a medical degree or diploma as, in the opinion of the Governor in Council, is sufficient. It is liable to revocation at any time.

Merchant Seamen.—Act 3 is in the same terms as the Ordinance of the Falkland Islands.

Postal Censorship.—No person may without lawful authority convey to or from the Colony or any Presidency thereof any letters or written messages otherwise than through the post, or in any letter make use of invisible ink. Passengers may be required to make declarations, and may be searched. Offences against the Act are punishable with fine (£100) or imprisonment for a year. Act 11 of 1915 is repealed (No. 4).

[1] 3 & 4 Will. 4, c. 106. [2] 22 & 23 Vict. c. 35. [3] 32 & 33 Vict. c. 46.

Wills.—Notwithstanding anything to the contrary in s. 19 of the Wills Act, 1872, a clinical or death-bed marriage is not to operate so as to render invalid any will previously made (No. 5).

(i.) ST. CHRISTOPHER AND NEVIS.

[*Contributed by the* HON. W. M. WIGLEY, *Attorney-General.*]

Ordinances passed—13.

Diseases of Animals.—Ordinance No. 2 provides for the appointment of Inspectors of Animals, and for the isolation or destruction of diseased animals, and prohibits their importation. It repeals Act No. 5 of 1877 of Nevis and Ordinance No. 5 of 1888.

Finance.—Ordinances No. 3, 9, 10, 11 and 12 continue the Emergency War Taxation and provide for increased duties and taxes on wharfage dues, lands and houses, cotton, sugar and molasses exports, spirits and flour imports, and the excise duty on rum.

Defence of the Presidency.—Ordinance No. 4 is on the lines of the Defence of the Realm Consolidation Act, and gives the Governor in Council powers identical with those conferred on His Majesty in Council by s. 1 of that Act.

Cadet Corps.—Ordinance No. 5 provides for the formation of a Cadet Corps, the same being attached to the Defence Force.

Arms, Ammunition and Gunpowder.—The importation of these are prohibited by Ordinance No. 6.

Second-hand Clothes.—Ordinance No. 7 provides for the disinfection of old clothes, large quantities of which are sent by parties who have emigrated to America to their relatives in the Presidency.

Letter-writing.—Ordinance No. 8 regulates the writing of petitions, letters, and similar documents in the names of persons other than the writers. It is on the lines of a St. Lucia Ordinance, and is similar to Antigua Ordinance No. 5 of 1916.

(ii) DOMINICA.

Ordinances passed—4.

Defence.—No. 4 is an Ordinance on the lines of the Defence of the Realm Act authorising the Governor in Council to make regulations for securing the public safety and the defence of the Presidency, which may confer power on courts-martial, as on the civil courts, to try breaches of the regulations.

(iii) MONTSERRAT.

Ordinances passed—5.

Defence.—Ordinance No. 2 for defence of the Colony is on the same lines as the Dominica Ordinance.

Cotton.—Export duties on sea island cotton are leviable for one year at the rate of 4*s.* 2*d.* per 100 lbs. for long staple varieties, and 2*s.* 1*d.* for short.

(iv) VIRGIN ISLANDS.

Ordinances passed—2.

Both these ordinances deal with appropriation.

XI. MEDITERRANEAN COLONIES.

1. CYPRUS.

[*Contributed by* STANLEY FISCHER, ESQ., *Puisne Judge of the Supreme Court.*]

Laws passed—16.

Of the above four were appropriation laws.

Pensions.—The pensionable age in Cyprus is sixty. Law No. 3 enables an officer who was in the Cyprus service and was transferred to other public service in which the pensionable age is less than sixty to draw his pension from Cyprus on retirement before the age of sixty. It also makes provision for preserving the pension rights of those who have done war service.

Commercial Code.—No. 4 provides for the pledging of shares in a company (Société Anonyme) formed under the Ottoman Commercial Code, called in the Law "The Commercial Code of Cyprus." Such shares may be pledged "as provided by Book V. of the Mejelle," and the pledge will operate "as if the same were movable property," provided that certain formalities are complied with.

Companies must keep a Register of Pledges, and may charge a fee not exceeding 1*s.* for registering a pledge or a redemption. Companies failing to comply with their obligations as regards registration are liable to pay a sum not exceeding £30 in respect of each act or default "at the suit of the person requiring the company so to act."

Copyright.—No. 5 provides that notice under s. 14 of the Copyright Act, 1911,[1] if given to the Commissioners of Customs and Excise of the

[1] 1 & 2 Geo. V. c. 46.

United Kingdom and communicated by them to the Chief Collector of Customs in Cyprus, and published in the Cyprus *Gazette*, shall be deemed to have been given to the Chief Collector of Customs. It also contains provisions as to making, selling, distributing, exhibiting and importing infringing copies of copyright work. It repeals the Copyright Law 1914.

Medical Registration.—No. 6 provides for the establishment of a Medical Register in Cyprus, and for the registration therein of medical practitioners. A body of medical assessors is created who are to consider applications for registration, and an applicant who is dissatisfied with their decision can appeal to the Chief Justice, who may call in two medical practitioners to assist him in hearing the appeal. Provision is also made for removing from the Register persons who are convicted of crime, or are deprived of their qualifications, and absentees for over two years; and for enquiring into charges of professional misconduct by a board, from whose decision an appeal lies to the Supreme Court. Only practitioners registered under this law can recover their fees and charges in a Court of Law. Penalties are provided for obtaining registration by false representation, for falsely pretending to be a practitioner, and for receiving fees when not registered under this law.

Game and Wild Birds.—No. 7 amends the Game and Wild Birds Protection Law, 1911. It provides for the extension, by order of the High Commissioner in Council, of the time for shooting wild swans, wild geese, wild ducks, woodcock and snipe in certain areas; for the issue of licences, to shoot crows, bee-eaters, doves, pigeons and sparrows up to May 31, and gives additional powers for the creation of reserves.

Municipal Councils.—No. 8 makes provision for the vesting and registration of municipal property, and for its sale and mortgage.

Identification of Prisoners.—No. 9 provides for the photographing, measuring and taking the finger and thumb prints of prisoners.

Municipal Councils.—No. 15 gives power to municipalities to make bylaws (1) prescribing the width of pavements and side-walls, and for their construction and maintenance at the cost of the adjoining owner if not too poor, and other kindred matters; (2) to prevent the affixing of notices, etc., on the buildings without the consent of the owner; to protect the avenues and trees belonging to a municipality; and for regulating traffic. It gives additional powers as to improvements, and amends the provisions relating to elections.

Shipping Dues.—No. 16 repeals the Port Charges Law, 1901, and the Port Charges Amendment Law, 1911. Port, health and light dues are imposed. Provision is made for abatement of the dues in case of a ship visiting a second or third port in Cyprus without having meanwhile called at a foreign port, and in case of visiting a fourth port within four weeks of leaving the third port of call in Cyprus, without having visited a foreign port, no dues will be payable. Ships, other than steamers, may

compound by paying in advance 1s. for each ton of the ship's registered tonnage for every half-year. Ships compelled to call solely for quarantine purposes are exempt from paying any dues.

The other laws passed, the Official Security (Immovable) Property Law, the Savings Bank (capacity to sue and be sued) Law and the Cyprian Mining Company, Limited (Property Disposal) Law are of purely local interest.

2. EGYPT.

[*Contributed by* W. MAKRAM EBEID, ESQ.]

1917.

Laws passed—16.

On declaring a Protectorate over Egypt, the British Government made it known that they regarded the end of the war as the proper occasion for abolishing the Capitulations which had hitherto constituted a serious obstacle in the way of judicial and legislative reform. Accordingly, by a decision of the Council of Ministers dated March 24, 1917, a representative Government body, called the Capitulations Commission, was set up to study the reforms which the abolition of the Capitulations will involve, whether in judicial organisation or in legislation and administration generally. The Commission is composed of three Egyptian Ministers, three British Advisers, and a Frenchman and an Italian occupying high legal posts in the Government. It is under the presidency of an Egyptian Minister, Sir William Brunyate, the Judicial Adviser, acting in the capacity of *Commissaire Rapporteur*.

During 1917, side by side with civil legislation, a series of military proclamations have been issued, dealing with various measures of more or less direct bearing on war interests. Indeed, in some cases, purely civil matters are dealt with by proclamation. As explained in a previous review, the civil authorities themselves have often found it to their interest to resort to martial law for certain measures of general application which could not be enforced against foreigners without recourse to the cumbrous and dilatory procedure of obtaining the direct or indirect assent of the Capitulary Powers. This year's output of military legislation is not, however, as considerable as that of the two previous years, when it was necessary to adopt a *modus vivendi* in regard to several novel and delicate questions of Public International Law. It is proposed to deal, first, with the various branches of civil legislation and to give, in the next place, a brief review of military proclamations.

Fiscal Laws.—Nos. 2, 7 and 14 refer to the imposition or increase of local taxation. No. 6 is the Budget Law. Law No. 4 deals with the pension of retiring Ministers. Under the Civil Pensions Law of 1909, the pension of Ministers was exceptionally fixed at £1,200 per annum,

provided they held office for two years, consecutively or otherwise. The present law does away with the two years' restriction and sanctions other minor improvements. Law No. 13 provides for the registration of all boats navigating on the Nile, in consideration of a small fee payable annually. An important fiscal measure, which permitted the raising of about £E800,000, was introduced by a decree of September 2 establishing a considerable excise duty over all sugar manufactured or refined by Egyptian factories, and subjecting to a drawback any such exported sugar. Another fiscal measure, introduced in the shape of a Decree (October 25), prohibits the exportation of silver money save by a special licence of the Ministry of Finance. Owing to their unfamiliarity with paper currency, the *fellaheen* could not be easily persuaded to part with their silver money, a tendency which has caused some embarrassment to the authorities and resulted in their taking such measures as the above for relieving the situation.

Judicial Organisation.—(*a*) *Mixed Courts.*—Law No. 5 prolongs the existence of the Mixed Courts for another year, as stated above. Law No. 5 extends the jurisdiction of the Mixed Courts in contraventional cases, or police offences. Hitherto, in cases where both foreigners and natives were guilty of the same police offence, the *forum* was determined by the law of the accused, and prosecutions were brought before the Mixed and Native Courts respectively. Law No. 5 provides, however, for purposes of convenience, and by analogy to civil cases, that both native and foreign offenders should, in such cases, be tried by the Mixed Courts. This solution is consistent with recent decisions of the Mixed Courts that they are, in principle, Common Law Courts of general jurisdiction. Law No. 11 amends several articles of the Mixed Code of Criminal Procedure as to motions before the Court of Cassation.

(*b*) *Native Courts.*—Law No. 1 provides that such government servants as are usually consulted by the Courts as to technical matters coming within their official duties shall, in the same way as regular experts, take oath once for all before the President of the Court of Appeal.

Law No. 16 relates to the oath to be taken by the notables composing the Cantonal Courts. These Courts are of recent institution (1912) and are mainly due to the initiative of the late Lord Kitchener. His object was to bring justice in minor matters in the country districts nearer to the doors of the people, by instituting village Courts composed of unpaid local notabilities, whose duty would be to administer a system of justice based on local usage and not too closely hampered by technical rules of procedure. Each Court is composed of three notables, and has jurisdiction in petty civil matters, as also in certain police offences. All civil cases, whether within their own original jurisdiction or that of the Summary Judge, are required to be submitted, in the first instance, to the Cantonal Courts, for amicable settlement where possible. These

Courts bear resemblance, in some respects, to the French *Juges de Paix.*

Administrative.—Law No. 8 is the new Arms Law, and provides for the disarmament of the whole population, with few exceptions, as a measure of public security necessitated by war conditions. Two other measures, connected with the war, are the establishment of a Department of Supplies to be attached to the Ministry of Interior (decree of September 26), and the formation of an Egyptian Labour Corps to be attached to the British Army (decree of October 20). Under the latter Decree, all Egyptians liable to military service are exempted from the obligation to such service if they enlist in and serve for a period of one year with the Egyptian Labour Corps, the Camel Transport Corps or any auxiliary service attached to the British forces. Thousands of labourers have volunteered and rendered valuable services to the British Army.

Public Health.—Law No. 9 relates to the vaccination of new-born children. No. 10 deals with preventive measures against cholera.

Agricultural.—Nos. 12 and 15 provide further measures for the destruction of the cotton boll-worm. In this connection may be mentioned a decree of September 8 providing for a considerable reduction of cotton acreage so as to allow for a more extensive cultivation of cereals.

Military Proclamations.

Agricultural.—A proclamation of February 19 provides for the cultivation of cereals in all areas in Upper Egypt which do not ordinarily enjoy irrigation from the Nile or other public canals during a certain period of the year. The Irrigation Service is accordingly empowered to expropriate the necessary lands and to maintain thereon such canals or other works as may be necessary for the irrigation of the areas in question. Another measure of considerable importance is the proclamation of August 12, prohibiting further dealings in the 1917 crop of cotton seed, " in view of the intention of His Britannic Majesty's Government to purchase that crop."

Judicial.—A striking illustration of the extent of the *imperium* which may be possessed by military commandants under martial law is afforded by the following proclamations.

By a proclamation of March 5, all Greek subjects resident in Egypt who had already adhered or who desired to adhere to the Salonika Government, were called upon to place themselves under the protection of the British Commander-in-Chief, " with a view to the subsequent creation of such Courts as might be necessary for the protection of public order and of the rights of the adherents of the said Government." Accordingly, a later proclamation of March 24 provides that all powers

of administering justice heretofore exercised by the Greek Consuls, consular judges and other consular authorities in Egypt shall be exercised over adherents of the Salonika Government by Courts of Justice to be set up under the authority of the Commandant-in-Chief. The said Courts are further empowered to apply Greek law and procedure. As a result of these measures, the two hostile Greek camps were legally recognised in Egypt, although the Government of Athens was not openly at war with the Allies.

Trading with the Enemy.—A proclamation of May 7 forbids, without the written permission of the War Trade and Licensing Officer, any direct or indirect remittances to persons resident in a neutral country. By establishing such close control over remittances to neutral countries it is sought to complete the measures previously taken for prohibiting payments to enemy subjects. A proclamation of October 17 provides further measures as to the sale and negotiation of securities.

Military Offences.—A series of proclamations under martial law forbid, as military offences, the supply of liquor to soldiers in hospital uniform (proclamation of January 27); the crossing of certain military lines drawn across the canal zone (proclamations of May 29 and October 10); and traffic in arms (proclamation of October 10).

3. GIBRALTAR.

[*Contributed by* J. W. Michelin, Esq.]

Ordinances passed—18.

Revenue.—Fees for the renewal or visa of a passport are prescribed (No. 2), and fees for licences for beaching, breaking up or building vessels on the western beach are fixed (No. 17).

Dentists.—Ordinance No. 3 provides that dentists shall be registered, and penalties are enacted for fraudulently procuring registration, and for any unregistered person using the title of "dentist," etc. Government, naval and military dentists are deemed to be registered.

Education.—Compulsory education is enacted, and restrictions placed on the employment of children; under the age of ten they may not be employed at all, and over the age of ten only on attaining a certain standard in reading, writing and arithmetic not less than Standard IV. The Ordinance applies to children between five and fourteen, but there is power to exempt children undergoing training in an art or craft. The Inspector of Schools must make annual inspection and reports to the Governor, who is empowered to make annual grants from the public revenue in aid of the schools. The general scale of such grants is prescribed, and the standards of examination laid down (No. 7).

Marriage.—In order to facilitate marriages between British subjects resident in Gibraltar and British subjects resident in the United King-

dom, Ordinance No. 8 makes provision for the issue in Gibraltar of a certificate of publication of banns or of notice of marriage, and provides that certificates for marriage issued in the United Kingdom shall have the same effect as a certificate of notice of marriage issued by the Marriage Registrar in Gibraltar.

This Ordinance was enacted in order that the provisions of s. 1 of Marriage of British Subjects (Facilities) Act, 1915,[1] might be applied to Gibraltar, and it was so applied by Order in Council dated November 16, 1917.

Deeds of Arrangement.—Ordinance No. 12 substantially enacts the Deeds of Arrangement Act, 1914.[2]

Criminal Justice.—By this Ordinance (No. 13) the provisions of the Criminal Justice Administration Act, 1914,[3] have been adopted, so far as practicable, in Gibraltar.

Bankruptcy.—This Ordinance (No. 14) amends the Bankruptcy Order in Council, 1894, thereby bringing its provisions substantially into line with the Bankruptcy Act, 1914.[4]

Money-lenders.—Ordinance No. 15 substantially enacts the Money-lenders Act, 1900,[5] as amended by 1 and 2 Geo. V. c. 38.

Emergency Legislation.

The remaining nine Ordinances come under this head, and may be summarised as follows:

Prohibition of Exportation.—No. 1 prohibits the exportation or removal of anything from Gibraltar without a permit to be issued by the Treasurer and Collector.

Trading with the Enemy.—No. 4 amends the previous Ordinances of 1914 and 1916, and brings the law on the subject up to date with the English legislation. Its provisions are mainly based on the Act 5 & 6 Geo. V. c. 105.

Trading with the Enemy and Export of Prohibited Goods.—No. 5 is similar to the Act 6 & 7 Geo. V. c. 52. It provides summary penalties for false declarations and statements, and for producing false guarantees, certificates or undertakings. It also provides a penalty for the mutilation, etc., of documents or books in connection with trading with the enemy.

Emergency Powers.—By No. 6 powers are conferred on the Supreme Court and on a Court of Summary Jurisdiction to enable such Courts to institute any proceedings, civil or criminal, or take any steps therein, or hear or try any pending cause or matter on a Sunday, or any other *dies non*. The Supreme Court acts at its own discretion, but a Court of Summary Jurisdiction acts on a certificate of urgency signed by the

[1] 5 & 6 Geo. V. c. 40.
[2] 4 & 5 Geo. V. c. 47.
[3] *Ibid.* c. 58.
[4] *Ibid.* c. 59.
[5] 63 & 64 Vict. c. 51.

Governor, or, in the matters relating to ships and persons employed therein, a certificate of the Senior Naval Officer may be accepted. Provision is also made for the arrest, punishment and conveyance on board ship of persons serving on ships of the Admiralty or Army Council where such a person neglects or refuses to join ship or to proceed to sea, or deserts, or is absent from duty or is drunk on board.

Compulsory Possession.—No. 9 empowers the Governor to require information as to anything required for or in connection with the war, and to take possession of it. The Ordinance also prohibits the selling or dealing with the thing after notice from the Governor and provides the mode in which the price to be paid for it is to be fixed.

Merchant Shipping.—No. 10 enables the Senior Naval Officer to take over any wreck if he is of opinion that such wreck can be made use of in the public service. It contains provisions for the appraisement of such wreck, and, upon payment or undertaking for the value, the wreck is handed over. The sum received as appraised value takes the place of the wreck for the purposes of the Merchant Shipping Acts.

Evidence.—No. 11 is almost identical in terms with the Evidence (Amendment) Act, 1915.[1] In certain circumstances, it allows the depositions of witnesses engaged in naval or military service, and also the statements of witnesses at preliminary investigations held under the Army Act to be read as evidence.

Control of Correspondence.—No. 16 prohibits non-postal communication to or from Gibraltar. It is taken mainly from corresponding provisions in the Defence of the Realm Regulations.

Trading with the Enemy.—No. 18 amends Ordinance No. 2 of 1916, which deals with trading with persons on the Statutory List.

[1] 5 & 6 Geo. V. c. 94.

FOREIGN.

1. FRANCE.

[*Contributed by* MONSIEUR C. SANSAS, *Docteur en droit.*]

1916.

War Legislation.

Traffic in Specie.—In time of war persons convicted of having bought, sold or surrendered, or of having attempted to buy, sell or surrender national specie at a price exceeding its legal value, or in consideration of a premium, will be condemned to imprisonment for a period between six days to six months, and to a fine of an amount between 100 and 5,000 francs, or to one of these penalties. The specie will be confiscated for the benefit of public charity. Law passed February 12.

Military Tribunals.—The councils of revision, formerly military, are now mixed (two magistrates of the Court of Appeal and three superior officers); the jurisdiction of councils of war for interior regions far from the front is more limited than formerly. Law passed April 27.

War Charities.—Persons or associations not recognised as being of public utility, who, with the object of mitigating the suffering caused by war, appeal to public generosity, must make a declaration to, and demand authorisation from the Commission of Control. If this authorisation is refused, the applicants may appeal to the Conseil d'État. Law passed May 30.

War Profits.—A special contribution has been levied upon exceptional or supplementary profits resulting from transactions completed during the period between August 1, 1914, and the expiration of the twelfth month following that during which hostilities cease in connection with provisions and supplies for the State or for local authorities, commercial transactions outside the ordinary profession of the person taxable, and financial agencies remunerated for the conclusion of a negotiation with the State or with a public administration.

Licensed dealers whose profits have been excessive are also subject to this tax. Law passed July 1.

Disabled by the War.—In the case of an accident during work, the Courts decide the extent which the accident resulted from disability contracted by the workman during the war. The employer can be relieved

of all or part of the responsibility established by the law of 1898, but the disabled man receives from a special fund the compensation awarded to him. This fund is maintained by contributions from employers and assurance companies. Law passed November 25.

Ordinary Legislation.

Dispensaries for Social Hygiene.—Public dispensaries of hygiene and anti-tuberculosis will be established for the purpose of giving instruction and advice regarding anti-tuberculosis measures, prophylaxy and hygiene, and in order to facilitate the admission into hospitals and convalescent homes of persons suffering from infectious diseases. These dispensaries will also offer assistance to the public in the disinfecting of linen and of places which have become unsanitary. Law passed April 15.

Maritime Assistance and Salvage.—All effective assistance or salvage receives equitable remuneration. In no case must the sum paid exceed the value of the materials saved. Persons who have taken part in the work of salvage in spite of the expressed and reasonable prohibition of the captain of the vessel in question are not entitled to any remuneration. The amount of remuneration is fixed by mutual agreement, or, failing that, by the Courts. Law passed April 29.

Maritime Police.—All persons, including foreigners, embarked on a French or foreign vessel, who in French territorial waters do not conform to the rules or to the orders emanating from the maritime authorities, namely, the police of the waters or the police of maritime navigation, are liable to imprisonment for a period between six days to six months, and to a fine not exceeding 500 francs, or to one of these penalties. Law passed July 2.

Morphia.—Those who sell, buy or employ, except in cases provided for by the rules, narcotics such as opium, extracts of opium, morphia, other alkaloids of opium (with the exception of codeine) their salts, their derivatives, cocaine, its salts and derivatives, haschish and preparations made from it, are punished with imprisonment during a period between three months and two years, and are fined in a sum between 1,000 and 10,000 francs. The same applies to persons who in society use these substances and encourage others to do so. Law passed July 12.

Savings Banks.—The maximum permitted to each depositor is fixed at 3,000 francs. For mutual benefit societies and institutions specially authorised, this maximum may be increased up to 25,000 francs. Law passed July 29.

Deserted Children.—A child placed in the care of a private person, an institution or public charity may remain there notwithstanding the claim of a parent, if it can be proved that the parent has for a long time entirely neglected him. Law passed August 5.

Wills made by Minors.—A minor, if called to the colours for a cam-

paign may, during the continuance of hostilities, dispose of his property as if he were of age, in favour of a relation as far as the sixth degree inclusively, or in favour of his widow. Failing relations of this degree the minor bequeaths it as if he were of age. Law passed October 28.

Souteneurs.—Those who make a practice of assisting or conniving at the prostitution of others with the object of profiting by it are considered as souteneurs. This special offence is punishable with imprisonment for a period between eight months and two years, and a fine of an amount between 100 and 1,000 francs, and with the prohibition of residence during a period between five and ten years. Souteneurs who have helped or connived at the prostitution of minors, who have used force for the purposes of prostitution, who have been found carrying a weapon, visible or concealed, are liable to imprisonment for a period between two to five years. Law passed December 27.

Income-tax.—This tax, created by the law of July 15, 1914, has been greatly increased. It touches every one whose taxable income exceeds 3,000 francs. It is calculated on the basis of one-tenth of the taxable fraction of the income comprised between 3,000 and 8,000 francs.

2/10	of that	between	8,000	and	12,000	francs.
3/10	,,	,,	12,000	,,	16,000	,,
4/10	,,	,,	16,000	,,	20,000	,,
5/10	,,	,,	20,000	,,	40,000	,,
6/10	,,	,,	40,000	,,	60,000	,,
7/10	,,	,,	60,000	,,	80,000	,,
8/10	,,	,,	80,000	,,	100,000	,,
9/10	,,	,,	100,000	,,	150,000	,,

and the whole amount of any taxable income above this sum.

The taxpayer having persons dependent on him benefits by a reduction in proportion to the number of those persons, but this reduction must not exceed the half of the amount he would otherwise have to pay. He must declare his income and give particulars of the sources from which he derives it. Failing this declaration the tax is increased by 10 per cent. Law passed December 30.

1917.

War Legislation.

Marriage.—During the continuance of hostilities a foreign woman belonging to an enemy nation who has married a Frenchman can only take the nationality of her husband if the marriage has been sanctioned by the Minister of Justice. Law passed March 18.

Legitimation.—Every child whose father, being mobilised, has died since August 4, 1914, in consequence of wounds received, or disease

contracted or aggravated while serving with the colours, may be declared legitimate by the tribunals provided that there is documentary evidence to prove a willingness on the part of both parents to marry and legitimate their offspring. Law passed April 7.

Sons of Foreigners.—During the period of the war every individual of the male sex born of a foreigner in France, who, when he attains the age of eighteen years, is domiciled in France, becomes French, unless he declines to be considered as such, and proves that he has preserved the nationality of his parents. Law passed July 3.

Civil Requisitions.—During the period of the war objects necessary for the feeding, clothing, lighting and warming of the civil population, raw material, industrial or commercial establishments for the production, fabrication, manipulation or preservation of the said objects can be requisitioned by the civil authority. Before the issue of requisitions Orders in Council determine the nature of the objects placed under requisition, and the conditions under which this requisition will take place. Law passed August 3.

Wards of the Nation.—France adopts orphans whose father, mother, or protector has perished during the course of the 1914 war, either as civil or military victims of the enemy. Similarly, children born or conceived before the termination of hostilities, whose father, mother, or protector is unable to work for a living in consequence of wounds received, or diseases contracted or aggravated by the war, are considered as orphans of the State. This law, which comprises thirty-three articles, creates commissions charged with the care of children thus adopted, and indicates the measures of protection to be taken on their behalf. Law passed July 27.

Seizures and Sales effected in an Enemy Country.—All Acts are null and void which injure the rights of property either of the State, departments, communes, or public establishments, and which are committed by enemy authorities in French departments occupied by them, and in defiance of international conventions. Similar measures of protection are taken in regard to Alsace-Lorraine, and the rights of private individuals are safeguarded as those of the State itself. Law passed November 8.

Ordinary Legislation.

Re-assurances.—Reassurances entered into or effected in France and in Algeria are subject to the supervision of the Government and its control. Law passed February 15.

Alcoholism.—It is forbidden to introduce, or to cause to be introduced, into establishments subject to the *Code du Travail*, alcoholic beverages other than wine, beer, cider, perry, and non-alcoholic hydromel. Law passed March 6.

Cheques.—Crossed cheques can be made payable to, and can be drawn upon, *agents de change*. Law passed January 26. If the account is less than the amount of the cheque, the latter is only valid to the extent of the sum available. Law passed August 2.

Credit for Small Commercial Undertakings.—Guarantee societies and people's banks are organised to encourage the development of small commercial and industrial undertakings. Law passed March 13.

Guardianship by Women.—Women may be admitted as members of family councils, and may exercise the functions of guardianship and trusteeship. Law passed March 20.

Legal Usufruct.—The surviving partner retains the legal usufruct, even though he (or she) contracts another marriage. Law passed April 5.

Large Families.—The furniture, linen, clothing and household effects belonging to the heads of families having more than three children, and not possessing sufficient means to bring them up, are exempt from seizure for debt. Law passed April 14.

Weekly Half-holiday.—Work-women of any age employed in the clothing industry are entitled to rest during Saturday afternoon. Law passed June 11.

Forfeiture of Nationality.—In the event of war between France and a Power to which a naturalised foreigner has resorted, such person may lose the French nationality when he has kept the nationality of his native country or of the country in which he possessed a prior naturalisation. Law passed June 28.

Income-tax.—Profits derived from industry, commerce, and agricultural undertakings, pay from public and private source, indemnities and emoluments, salaries, pensions and life annuities, profits from non-commercial professions, interest on debts, deposits and securities are taxable in proportions varying between 3 fr. 75 c. and 5 fr. Law passed July 31.

Maternal Nursing.—Workwomen nursing their infants have at their disposal half an hour in the morning and half an hour in the afternoon, unless there is a room apart for the purpose, in which case the time allowed is reduced to twenty minutes. Law passed August 5.

Retail Wine-shops.—In 1911 there was in France a wine-shop to every eighty inhabitants (women and children included), in Paris 33,000 for 2,600,000, inhabitants. Parliament takes measures in order to restrict the number of these wine-shops, and imposes penalties on persons found in the streets in a state of intoxication, and on keepers of wine-shops who have admitted them to their establishments. Law passed October 1.

Communal Syndicates.—The formalities required for the establishment of these associations have been simplified. Created by the law

of March 22, 1890, these syndicates have had until now no result of any importance. Law passed November 13.

Women Lying-in.—Frenchwomen not having sufficient resources, receive a daily allowance during the period of rest which precedes and follows their accouchement. Law passed December 2.

Establishments which are Dangerous, Unsanitary or a Nuisance.—These are divided into three classes, according to their character, and placed under special supervision. Law passed December 19.

Rehabilitation.—Convicts called to the colours in time of war, and who, in consequence of conspicuous bravery, have been mentioned in the dispatches of the army, the division, the brigade or the regiment, may demand their rehabilitation without any condition in regard to time or residence. Law passed December 22.

Succession Duty.—The net total capital of inheritance is taxed on a progressive and graduated scale. This tax is the equivalent of the "Estate duty" in force since 1894 in Great Britain. Law passed December 31.

2. HOLLAND.[1]

In recording the different Acts which were passed by the Chambers in the Netherlands during the year 1917 the fact has to be kept in view that the majority of the legislative measures were enacted under the influence of the war then furiously raging in the neighbouring countries.

Requisition of Ships.—The Netherlands, being situated like a small island in the midst of a seething sea, the Government had always to make provisions for a supply of goods and victuals sufficient to meet the needs of the increased population, and, in order to secure this supply, they had to make sure that they should have the control of a sufficient number of ships. Accordingly, a "Requisition of Ships" Act, authorised the transfer of a requisite number. By virtue of this Act the Minister of Agriculture, Industries and Trade is entitled to demand from the owner of a Dutch sea-going vessel either the whole, or part of the ship's hold under the conditions of a charter party. In the former case the fact of the entire hold being required must be precisely mentioned; and in the latter case the quantity of goods to be carried; and in both cases the voyage, and the port the ship is bound for, must be indicated in the demand. This demand can only be made when the cargo is to consist of goods to be imported by the Government and to be distributed by them, either in a natural state or after manufacture in Holland, under regulations prescribed by the "Distribution Act, 1916."

The demand is made by letter or telegram addressed to the ship-owner and in it are indicated the place and the time where and when the delivery of the ship is required. By such demand existing freight-

[1] Contributed by the International Intermediary Institute.

contracts and other settlements already entered into by the ship are, *ipso facto*, cancelled, without the owner being liable to make compensation; inasmuch as the execution of the contracts had been rendered impossible by it.

Compensation for the use of the ship is, if possible, to be settled by mutual agreement between the Minister and the shipowner, or, failing such agreement, by a board to be appointed by the Crown. Special compensation may be granted by the board when it considers it to be fair, in such a case, for example, as the ship finding itself far from the port at which delivery is required when the claim is made. In the event of the shipowner failing to comply with the claim altogether, or being behindhand in delivery, the Minister can call upon him to pay compensation for default. This claim for compensation must, however, go before the judge who is required to hear the expert members of the board before mentioned, before he pronounces judgment. If the fault consists simply in delivery not having been made in good time, the Minister, the board having been heard, can reduce the amount of compensation claimed, or wholly abandon the claim. If, however, delivery has been refused, the Minister is entitled to take possession of the ship by force.

The owner of a sea-going vessel who wholly neglects the *claim*, or who does not act up to it in good time, or who fails to deliver his ship at the port fixed, is liable to imprisonment up to two years; if a ship is owned by a joint-stock company, a co-operative society, or by any other corporation possessing juridical personality, all the members of the directorate are considered to be the owners, and are all liable to this penalty. By virtue of this Act a Dutch sea-going vessel is understood to be every ship of more than 400 tons which on January 1, 1917, or afterwards, is provided with a Dutch clearance. The fact is to be noted that the Act in question is to operate as long as the war conditions, out of which it arose, continue to prevail.

Military Service.—The same war conditions also involved the passing of an Act containing special measures with respect to the draft called under arms in the year 1918, by virtue of which several exemptions from active service, hitherto provided by law, were annulled, and the drawing for conscription of this draft was not held. Another Act, having also in view the increased efficiency of the Army, obliges every soldier, considered capable for the training in the higher ranks, to undertake such training in the event of war, or other extraordinary circumstances.

Forests Preservation.—A further Act, also arising out of the same extraordinary circumstances, is one which deals with the conservation and expropriation of woods. By this Act the Minister of Agriculture, Industries and Trade is entitled to forbid, or to permit under certain conditions, the whole or the partial felling of woods in order to supply fuel, pit-props, piles, etc., as well as to conserve the beauties of nature;

and this authority applies to the whole territory of the Kingdom, as well as to a part of it, and in general as well as in special cases.

Rent Restriction Act.—There must also be mentioned among the regulations of this critical period an Act to prevent the unreasonable increase of house rents of the smaller kind. In every community, if necessary a Committee, consisting of five members, is appointed by the ordinary Municipal Board. Before these committees are brought all claims relating to increased rents, whereupon the committees hear the litigants, and make their decisions against which either party may appeal to the District Committees.

Foreign Trade.—Another Act, originating in the war crisis, deals with foreign trade, and contains special measures relating to goods traffic to and from abroad. And, in this connection, the emergency having in particular proved the necessity of possessing trustworthy statistical information, an Act was passed containing measures for obtaining an exact statistical record of production and consumption.

Revenue.—In order to increase the ordinary revenue of the State, the Succession Act was altered so as to allow the of death-duties being raised, duty on the *donations* being more specifically regulated, and payments in virtue of contracts of life insurance being subjected to duty. Inspired by the same idea was the Act providing for an increase of the duties on imported beer, and the abolition of the duties on vinegar. Other Acts of a fiscal nature passed were the New Registration Act, which abolished duties upon registration of mortgages, and a new Act regard ing the levying of stamp duties.

International Law.—There were also introduced two regulations connected more or less with international law, viz.: an Act to prevent the action of individuals encroaching upon the functions of the State under international law in cases of civil procedure, *e.g.* prohibiting claims for compensation brought by a Dutch citizen against a foreign State, and an Act consenting to the Declaration signed at the Hague on May 26, relating to the abolition of the Dutch Capitulations in the French zone in Morocco.

The decisions of a Dutch Court, Rotterdam (September 25, 1916), pronouncing the Imperial German Government liable by default in appearance to compensate the Dutch owner of a ship, which at the beginning of the war had been sunk by the German military authorities in Belgium, has once more called attention to a defect in Dutch legislation. No provision is made for dealing with the international difficulties resulting from judicial sentences, as in this case, not in conformity with international law, which only allows in exceptional cases judgment to be given against a foreign State. This defect is the more remarkable seeing that the Dutch Constitution contains a special provision (Art. 156 (2), which has remained a dead

letter till now) requiring legislation in order to determine conflicts between the executive and the judiciary, and seeing that, in upholding this provision, which dated from 1888, the Government referred specially to an identical case with the present. The Minister of Justice, in answer to an interpellation in the Second Chamber (December 13, 1916) stated, that, although there was no legal basis for action, he would do all he could to make impossible the execution of a judgment which he regarded as contrary to international law. At the same time he proposed legislative measures in order to supply this defect, and he asked the opinion of the Commission on Private International Law, which owes its origin to the late M. Asser, its first president, upon the question whether the conflict of the law in question should not be dealt with by international convention.

Post Office.—In postal matters a large improvement has been made by Royal Warrant on the establishment of a system of postal cheques taking effect by a post-cheque-and-endorsement service.

Universities.—In matters of education an important change has been effected by an Act for regulating Agricultural and Veterinary Science, whereby the schools at Wageningen and Utrecht have been raised to the status of Universities.

Post-war Scheme.—Proof of the fact that the Government and the Chambers are giving careful attention to the promotion and development of trade and industries after the war, is furnished by several Acts passed, viz.: for the compulsory purchase of land for improving the North Sea Canal, and the construction of a lock at Ymuiden; for the improvement of the New Waterway from Rotterdam down to the sea; the expropriation of land for the purpose of a new goods station at Arnhem, and the connection of the projected Rhine port with that station by railway, as well as for the laying out of industrial grounds in the neighbourhood of that city; the expropriation of land for the sake of the extension of existing ports in that city.

Electoral Reform.—In spite of other manifold anxieties, the Government succeeded in passing three Acts of the greatest importance for the development of political institutions, viz.: the modification of the second, third and fourth chapters, and of Article 192 of the Constitution, which were passed, published in the *Official Gazette*, and solemnly proclaimed on December 12. Direct and universal suffrage for men was the chief feature in this modification, for the female part of the population the suffrage was left to be regulated by ordinary law. The suffrage is the same for the composition of the Second Chamber, and for the Provincial Councils, and the Municipal Boards. All the members of these corporations retire every four years. The election of the different members is founded on the system of proportional representation.

The Religious Difficulty in Education.—The modification of Article

192, referred to above, effects the equalisation of public and private (denominational) education, by which it is hoped that the end has been reached of the everlasting conflict in matters of instruction. The two kinds of instruction—public as well as private—will henceforth be subsidised by the State.

3. SWEDEN.

[*Contributed by* SIEGFRIED MATZ, ESQ.]

Amongst the laws passed in Sweden in the course of 1917 the following may be singled out as having a claim to general interest:

Domestic Relations.—This year was marked by inter-Scandinavian legislation in the province of family law. On June 14 there were issued three new laws, viz., with regard to children born out of wedlock, children born in wedlock, and adopted children. The first-named law introduced and carried through modern and rational principles, especially in regard to the duty of maintenance. The child's right to maintenance does not commence before it has attained the age of fifteen, nor does it continue beyond the age of eighteen, unless the aptitudes of the child, or other special circumstances render it essential that the child should receive further education. Right to maintenance may also exist beyond the age mentioned in special cases, *e.g.* if the child owing to illness is unable to support itself. The parents shall participate in the costs of the maintenance of the child according to their capacity. The parent who has not the care of the child—which naturally devolves in the first place on the mother—is liable to pay maintenance.

In order to assist the parent who has the care of the child in collecting the payments, and in other respects to see that the rights and welfare of the child are duly observed, a guardian is appointed for every child born out of wedlock. The guardian is nominated by a committee of guardians appointed for each parish. A woman may be nominated as guardian.

In principle, children born out of wedlock are entitled to inherit only from the mother. Only so-called "trolovningsbarn," *i.e.* children born of parents who at the time of conception were formally betrothed (in accordance with ancient Swedish custom), or of parents who after the conception have entered into formal betrothal, are entitled to inherit also from the father. The chief reason why the right to inherit from the father has in principle not been assigned to children born out of wedlock, is that no thorough investigation of paternity is intended to be made. If it is ascertained that the person in question has cohabited with the mother at the time when the child may have been conceived, he shall be deemed to be the father, unless it is manifest that the child was not conceived in that cohabitation. *Exceptio plurium* is therefore not conceded.

Laws relating to Real Property.—The new Expropriation Law of

May 12, 1912, which consolidates and expands previous legislation on this subject, is deserving of particular notice. By this law the right to obtain expropriation has been considerably extended. Thus, for example, ground can be expropriated for the purpose of providing dwellings for factory hands, or even for such a purpose as providing the population of the district with a site for a building for meetings or lectures. Special clauses in this law are intended to protect the rights of encumbrancers. By another law of the same date new regulations were made with regard to the *erection of houses* in towns; this law contains provisions concerning a special register of houses in towns.

Temperance Legislation.—By a Royal Ordinance of June 14, 1917, the rights to retail trade in intoxicating liquors, inclusive of wine and beer, have, with certain exceptions (*i.e.* subject to the approval of the municipal authorities, as well as the consent of the Provincial Governor) been assigned as a monopoly to special companies formed in each commune. Should the municipal authorities refuse to recommend the application for the sale monopoly, no such monopoly (and hence no licences) is, as a rule, granted. Thus, to a certain extent, local veto exists. If, on the other hand, the liquor sale company is formed, it shall not be permitted to give the shareholders a larger profit than 5 per cent. annual interest on the capital invested. The entire net profit (after the payment of this restricted dividend) falls to the Treasury. By these regulations, as well as by the provision that the company's sale prices shall be fixed by a central state authority, viz. the "Control Board," it has been endeavoured, as far as possible, to eliminate private economic interest in the sale of intoxicants. Only a person who has obtained a so-called *motbok* (pass-book) is allowed to purchase intoxicating drinks for consumption off the premises. Persons who are believed to be likely to abuse intoxicants are excluded from the right to obtain a pass-book. As a rule only four litres of spirits are sold per pass-book per calendar month.

War Legislation.—In order to prevent aliens from acquiring Swedish tonnage, a law of March 28, 1917, empowered the Crown to issue a prohibition against the transfer of a Swedish vessel or share therein to an alien or to certain legal subjects (bodies or persons) which might act as covers for foreign interests. The prohibition, when issued, shall also extend to the right for an alien, or the said legal subjects, to acquire shares in Swedish shipping companies. The time chartering of Swedish ships to aliens is in certain cases prohibited. Licences may be granted by the Crown. The prohibition referred to in the law may be issued by Royal Decree at any time during the period of the law's validity (in practice on the same date as the law). Regulations have been made with regard to the right to convey goods between foreign ports on Swedish vessels.

Another regulation restricting the rights of aliens is the Royal Decree

of June 7, 1917, with regard to "Special Conditions for an Alien's Right to carry on certain Business in Sweden." The so-called Liberty of Trade Ordinance of June 18, 1864, made the right of an alien to carry on trade (or other occupation for commercial profit) dependent on a licence from the Crown. In view of the uncertainty which had arisen in the Courts as to the practical application of these regulations in cases where an alien purchased goods in Sweden solely for the purpose of exporting them, the Decree of May 7, 1917, enacted that an alien who had not applied for a licence under the regulations of the Ordinance of 1864, should, in order to obtain permission to carry on the said business (purchase of goods in Sweden for export), apply for a licence to the supreme *local* authority, viz. the Provincial Governor.

The following war-time regulations also deserve notice:

The War Trade Law of April 17, 1916, was by the Laws of March 30 and June 12, 1917, prolonged (with an additional clause) till April 30, 1918, inclusive. Two laws were issued for the purpose of preventing exorbitant charges being made during war-time: namely, the Law of June 19, 1917, "containing certain regulations against exorbitant prices in extraordinary circumstances arising from war" (generally known as the Ockerlagen or Profiteering Law), and a law "containing certain regulations against unreasonable increase in rents."

Finally, a Law of April 27, 1917, gave the Crown extended powers, in times of war or crisis, to expropriate private property of certain kinds.

4. UNITED STATES.

[*Contributed by* R. Newton Crane, Esq.]

The war measures of the United States, which have been described in the Society's Journal (vol. xviii. p. 96), have mainly occupied the attention of Congress to the exclusion of other legislation. Certain additional laws, however, deserve attention.

Bankruptcy.—An amendment to the Bankruptcy Law of July 1898 exempts various debts from the bankrupt's discharge. Among these are liabilities for obtaining property by false pretences or by false representations, or liabilities for wilful and malicious injuries to the person or property of another, or for alimony due or to become due, or for maintenance or support of wife or child, or for seduction of an unmarried female, or for breach of promise of marriage accompanied by seduction, or for criminal conversation.

Juvenile Offenders.—As the work of Juvenile Courts is increasing and their jurisdiction is rapidly extending, Congress has provided that no judgment of conviction against any child in the district of Columbia shall operate as a disqualification of any such child for jury duty, or

for holding office, or for any other public service under the Government of the United States or the district of Columbia, and no child against whom a judgment of conviction has been entered shall be denominated a criminal by reason of such judgment, nor shall such judgment be denominated a conviction.

Undesirable Aliens.—Congress has passed a sweeping measure dealling with aliens who are members of anarchistic and similar classes. It provides that aliens who believe in or advocate the overthrow by force or violence of the Government or of all forms of law, or the assassination of public officials and the destruction of property, shall be excluded from admission to the United States. If an alien who has gained admission to the country is found to be of such a character he shall be taken into custody and deported. If, after being thus deported, he shall re-enter the United States, or attempt to do so, he shall be deemed to be guilty of a felony, and upon conviction thereof shall be punished by imprisonment for a term of not more than five years, and at the termination of his imprisonment shall be again deported.

"Dry" Columbia.—The Act making the District of Columbia "dry" is notable for the stringency of its provisions. It prohibits the manufacture and import for sale or gift, or the offering or keeping for sale or exchange of any alcoholic or other prohibited liquors for beverage purposes or for any other than scientific, medicinal, pharmaceutical, mechanical, sacramental or other non-beverage purposes. "Alcoholic liquors" shall be deemed to include "whisky, brandy, rum, gin, wine, ale, porter, beer, cordials, hard or fermented cider, alcoholic bitters, ethyl, alcohol and all malt liquors." Violation of the law is punishable by both fine and imprisonment. Railway and other transportation companies are required to keep a record of all shipments into the district, showing the name of the consignor and the consignee, and the amount and kind of the liquor and the date of its delivery. This record shall be open to the inspection of any person, and when produced in Court shall be *prima facie* evidence of the facts therein stated. Any physician prescribing alcohol except for treatment of disease, which, after his own personal diagnosis, he shall deem to require such treatment, shall be deemed guilty of a misdemeanour, and upon conviction shall be fined not less than $100 nor more than $500, and upon a second conviction it shall be part of the judgment that his licence to practice shall be revoked. Wine for sacramental purposes may only be obtained upon a permit issued upon an application by a priest or minister of a religious body stating the amount desired, for what period and for what purpose. The amount, if any, allowed shall not exceed five gallons.

West Indies.—The Act to provide for the temporary government of the West Indian Islands, acquired by purchase from Denmark, provides that all military, civil and judicial necessary powers shall be temporarily

vested in a Governor appointed by the President. Until Congress shall otherwise provide, the Danish laws, regulating elections and the electoral franchise, shall remain in force. The judgment of the Courts, reviewable by Courts of Denmark at the time of taking possession of the islands, shall now be reviewed by a designated United States Circuit of Appeals. All articles, the growth or product or manufacture of the islands, which do not contain more than 20 per cent. of foreign material, shall be admitted free into the United States. All taxes, including customs, are to remain in force, except that articles grown and manufactured in the United States are to be admitted free of duty. There is, however, the condition that upon the exportation of sugar from the islands an export duty of $8 a ton shall be levied. The duties and taxes collected are not to be paid into the United States Treasury, but are to be used exclusively for the government and benefit of the islands. The Act is to take effect upon the payment of the $25,000,000 to Denmark, which is the agreed purchase price of the islands.

Moratorium.—So far as state legislation is concerned, this has to a great extent been affected by the war, a large part of the attention of the legislators being directed to measures of a military nature, or to the effect of the war upon contractual relations or military service. It was deemed by many lawyers that the moratorium law passed by Congress would require supplemental legislation by the States. Accordingly, many States have passed measures giving powers to the State Courts to stay actions pending therein; to withhold entry of judgments for default of appearance, when the defendant was on active service; to continue the statute of limitations with respect to causes of actions accruing prior to or during service; to postpone the summary remedies of landlords for rent, and of life insurance companies for failure to pay premiums; to afford relief from judicial actions for the collection of taxes, and to protect men in service from the consequences of their absence in probate and administrative matters.

The Duty to Work.—Several States have enacted laws imposing upon their inhabitants a duty to engage in useful work. These legislative attacks upon the idle, according to the report of the Committee of the American Bar Association, appear to have started with the enactment in Kansas of a law defining vagrancy to include refusal to accept employment. West Virginia went further and expressly declared it to be the duty of every able-bodied male, except students and strikers, to work at least thirty-six hours a week. Failure to comply with this requirement was made a misdemeanour, punishable by sixty days' public work. Kentucky includes mere idleness in its vagrancy law only when the accused is without means of support. Summary convictions under this law are authorised, and the right of appeal is dependent on security being given not to violate the law pending the appeal. In the Maryland

law the possession of means of support is no excuse for failure to work. All able-bodied men between eighteen and fifty who are not usefully employed are required to register and to accept such work as is assigned to them by the Governor of the State. The hours and the wages are to be those usual in similar employments. In Massachusetts, New Jersey, New York, Rhode Island, Delaware, Nebraska and South Dakota laws having the same object in view appear to be more specially directed to the protection of the public welfare during the war. The Nebraska law, for example, includes habitual idleness or refusal to accept obtainable work in its definition of sedition. The report of the Committee to which reference has been made says that " the purpose of these compulsory labour acts is not so much to prevent the evils of idleness as to secure to the public the economic benefit of the work of the individual. They are not labour conscription Acts, as strikers are specifically excepted from their provisions. They seek to stimulate individuals to usefulness."

The Status of the Bar.—A notable movement is apparent in recent legislation in several States for the improvement of the bar, by greater stringency in the rules with respect to admission to practice, by raising the standard of ethics and by removing from the rolls attorneys who have been guilty of certain offences which tend to lower respect for the legal profession. In all of the States of the United States calls to the bar are made by the judiciary. The common practice is for the judges to appoint the examiners. These examiners have widely varied conceptions of their duties and of the standards to be established. The result is that in many judicial districts oral examinations only are held, to which any person may submit himself. On the other hand, in other jurisdictions the tests are severe, and only those who are well educated and of high moral character succeed in successfully passing them. In nearly every State motions are granted for admission on the production of a diploma from an accredited law school, but some States have now passed laws withdrawing this right. California has taken this action, and requires that a part of the examination to which all candidates, whether graduates of law schools or not, must submit themselves shall be in writing. New Mexico provides that a third examination shall not be permitted to a candidate who has twice failed, until two years have elapsed since his last failure. Arkansas excludes attorneys from practice in circuit or other Courts until admitted by the Supreme Court, and authorises the latter to fix standards of admission and appoint an examination board. Montana and Washington impose an annual licence fee, although of a nominal amount, upon attorneys. The Montana law makes it the duty of the Attorney-General to investigate and prosecute all complaints as to misconduct, while in Washington it is the duty of a state board of law examiners not only to enforce all the laws and ethics

relating to the duties of attorneys, but also to hear complaints, and, if justified, to suspend or annul the attorney's licence. This is said to be the first instance in the United States in which what is practically the right of disbarment has been taken away from the judiciary and conferred upon another body.

Administration of Estates.—In substantive law very little, if any, change has been effected by recent legislation. In Pennsylvania Acts have been passed codifying and revising the laws relating to decedents' estates, as the result of a commission appointed for that purpose. The most notable change is the abolition of the distinction in intestacy between descent in case of realty and in case of personalty. Heretofore, and as in most States, a surviving spouse or parent was entitled in case of realty to a life-interest only, while in case of personalty the surviving spouse or parent took an absolute interest. The reason assigned for the change is that at the present time it is a matter of accident whether, at the date of a man's death, his property consists of real or personal estate. For the same reason the distinction between heirs of the whole blood and of the half blood as to the inheritance of real estate is abolished. Similarly, the old rule as to "the blood of the first purchaser" is done away with, so that now the nearest relatives will take, irrespective of whether the real estate was derived by the deceased from their side of the family or not. The length of time for the settlement of an estate has been reduced from one year to six months, for, as the commission points out, while the longer term was once a convenient period, under modern conditions of rapid communication it is no longer necessary or advisable, as the majority of estates can now be settled in six months, and it is often a great hardship to legatees and creditors to compel them to wait for a year. A radical provision in the new law is that the old law by which a woman's will was revoked entirely by her marriage is done away with, and the law formerly applicable to a man's will by which it was revoked upon marriage, or the birth of issue not provided for, only *pro tanto* is extended to apply to women. In Arizona and Florida a surviving spouse may, without letters of administration, collect sums owed to the deceased for wages. Several States have prohibited a murderer from inheriting or sharing in the estate of the person killed by him. Minnesota provides that no person guilty of felonious homicide may inherit or share in the property of the person killed. Indiana declares void any provision in a will to the effect that any beneficiary who takes proceedings to contest a will or prevent its admission to probate shall forfeit any benefit provided therein.

Domestic Relations.—Details of recent legislation with respect to domestic relations, so far as they prevent the marriage of persons having a communicable disease, have already been published in this Journal. In North Dakota applicants for a marriage licence are required to answer

under oath whether either has been divorced, and, if so, to file a certified copy of the divorce decree. In such case no licence may be issued which in any manner contravenes the decree. Thus, presumably, the statute may have the effect of preventing a marriage in one State because such marriage would be unlawful in another State in which the decree of divorce had been granted. This is contrary to the rule in New York, where after decree the statute forbids the marriage of the defendant, and the Courts of that State have held that, notwithstanding this inhibition, the marriage of the defendant in another jurisdiction is valid. Washington adds, as a ground for divorce, that where the parties have been estranged and have lived separate and apart for eight years or more, and the Court is satisfied that they can no longer live together, a decree may be granted. A law in North Carolina denied this relief where there were children of the marriage, but this condition has now been abolished by an amendment to the law.

Legitimation per Subsequens Matrimonium.—The great majority of the States have adopted the rule of the civil law, that children born out of wedlock are legitimated by the subsequent marriage of their parents, North Carolina being the most recent to enact a statute to that effect. The most radical legislation, however, on this subject is in North Dakota, where a law has been passed which declares every child to be the legitimate child of its natural parents and entitled to the same support, education and rights of inheritance as if born in lawful wedlock.

A novel statute has been enacted in Florida by which male minors become *sui juris* upon marrying, and which further provides that divorce before reaching twenty-one shall not restore the disability incident to minors.

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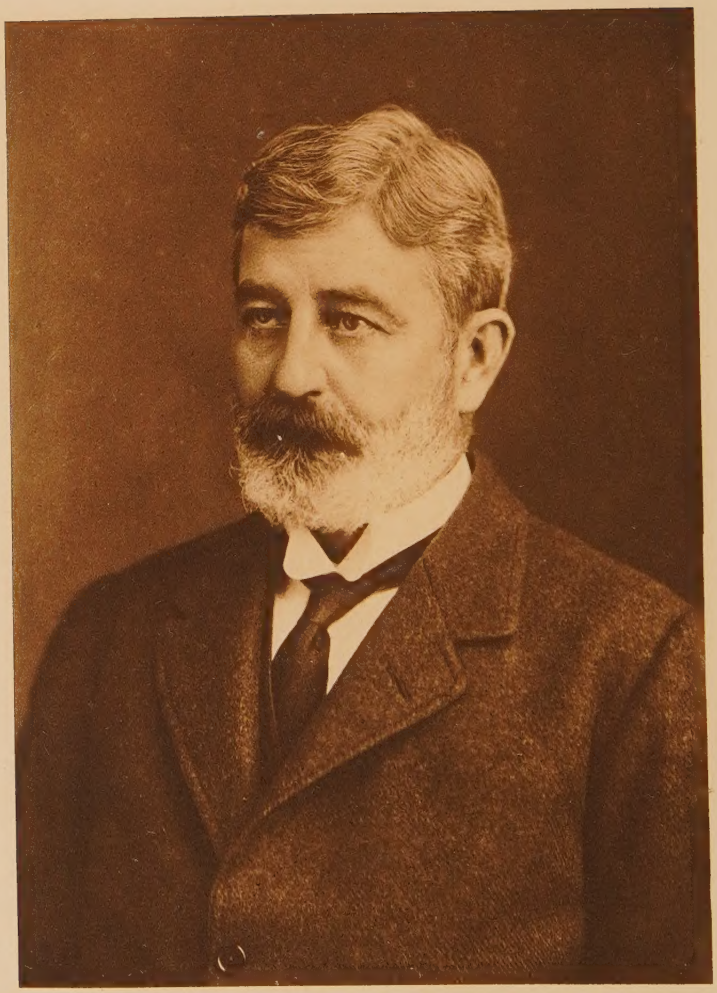

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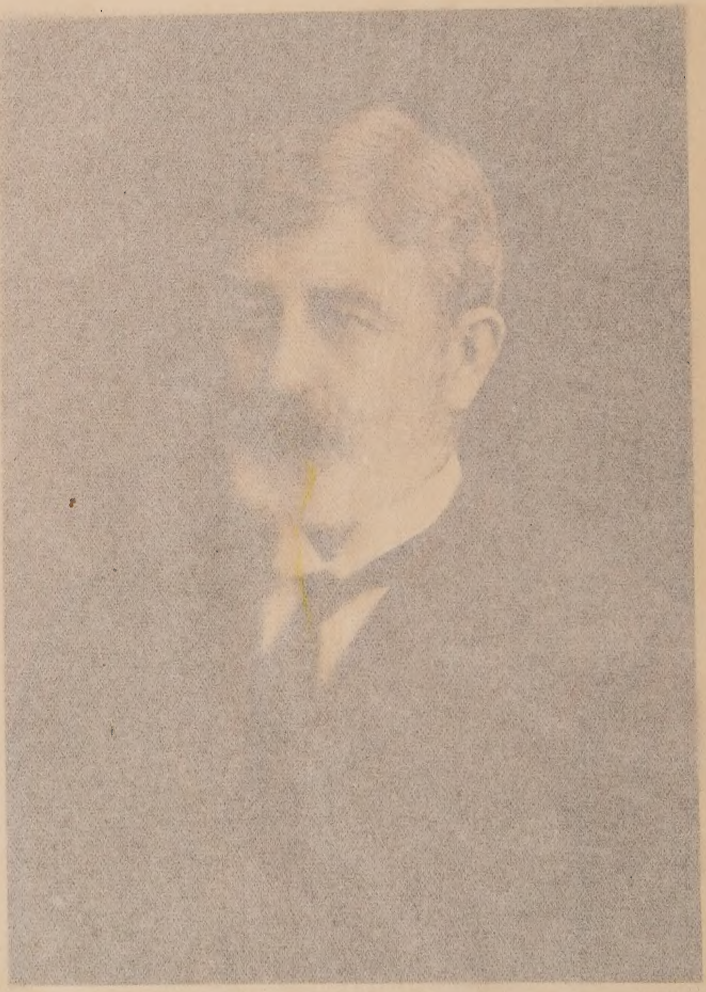

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